



**CYCLES OF  
EXPLOITATION:**  
THE LINKS BETWEEN  
CHILDREN'S  
INSTITUTIONS AND  
HUMAN TRAFFICKING

A GLOBAL THEMATIC REVIEW





## ABOUT LUMOS

Lumos is fighting for every child's right to a family by transforming care systems around the world. We are an international charity striving for a future where every child is raised in a safe, loving home, supported by family to help them thrive.

80% of children in orphanages have living parents or relatives, and research proves that these institutions can harm a child's growth and development. Yet there are still over 5.4 million children trapped in institutions globally.

Lumos sheds light on the root causes of family separation – poverty, conflict and discrimination – and demonstrates that children can safely be united with families. By pressing governments to reform care systems, and by building global expertise and capacity with partners, we ensure no child is forgotten.

Founded by author J.K. Rowling, we are lighting a path to a brighter future where all children can grow up in a safe and loving family. We are Lumos.

## ACKNOWLEDGEMENTS AND AUTHORS

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# EXECUTIVE SUMMARY

Decades of research have shown how important it is for children to grow up in safe, loving families rather than in institutions. For children to thrive, they need more than basic health, nutrition and hygiene: they also need individualised, personalised care from a trusted adult – care that institutions, by their very nature, cannot provide.<sup>1,2,3</sup>

Despite this, an estimated 5.4 million children worldwide live in institutions that cannot meet their needs and neglect their rights.<sup>4</sup> This includes so-called orphanages, where on average more than 80% of children are not orphans.<sup>5</sup>

In addition, an estimated 9.965 million children live in modern slavery, encompassing human trafficking for all forms of exploitation, including sexual abuse, criminality and forced labour.<sup>6</sup> According to the internationally recognised definition of child trafficking, a child does not have to have been physically trafficked to be considered a victim: he or she may instead be recruited, received or 'harboured' (ie, accommodated before or at the site of exploitation) in order to be exploited.<sup>7</sup>

This Global Thematic Review examines the growing evidence of the links between the institutionalisation of children and human trafficking. It highlights how the relationship between the two compounds the harmful nature of both phenomena and offers insight into the global response needed. As the case for care reform continues to be made in many parts of the world, it is critical to recognise and understand these links so that interventions, advocacy and policies can be put in place to disrupt the systems and processes that negatively impact children's lives.

**The evidence collected in this report aims to appraise, synthesise and build on the current evidence-base on institution-related trafficking in diverse contexts around the world.**

This research was conducted by Lumos between July 2019 and November 2020. It identified and prioritised five thematic areas and corresponding research questions in relation to institution-related trafficking:

- **Core concepts:** How can the core concepts around institution-related trafficking be described and defined?
- **Laws, policies and systems:** What laws, policies and systems currently govern institutional care for children and human trafficking in all its forms? How can the term 'orphanage trafficking' be legally defined and what would a model law to tackle it entail?
- **Patterns and dynamics:** How are children trafficked and exploited in different institutional care settings around the world?
- **Scale and prevalence:** What can new and existing evidence tell us about the estimated scale and prevalence of institution-related trafficking?
- **Vulnerabilities, risks and drivers:** Why do certain children become victims of institution-related trafficking? What drives institution-related trafficking?

#### The thematic review used five qualitative methods:

1. a multilingual literature review focusing on academic and grey literature
2. a global call for evidence on children's institutions and human trafficking, reaching 84 organisations and individuals from 45 countries across all regions of the world
3. interviews with eight international experts working in the anti-trafficking and alternative care fields
4. a series of illustrative country case studies using qualitative methods
5. a Model Law on Institutional Childcare Trafficking for the Purpose of Financial Exploitation, developed using expert roundtables and legal opinion.

<sup>1</sup> Berens, A.E. & Nelson, C.A. (2015). The science of early adversity: is there a role for large institutions in the care of vulnerable children? *The Lancet*. 386(9991): 388-98. [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(14\)61131-4/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(14)61131-4/fulltext) [accessed 1 September 2021].

<sup>2</sup> Dozier, M., et al. (2014). Consensus statement on group care for children and young people: A statement of policy of the American Orthopsychiatric Association. *The American Journal of Orthopsychiatry*. 84(3): 219-225. <https://www.apa.org/pubs/journals/features/ort-0000005.pdf> [accessed 1 September 2021].

<sup>3</sup> Mulheir, G. (2012). Deinstitutionalisation – A Human Rights Priority for Children with Disabilities. *The Equal Rights Review*. 9: 117-137. [https://www.equalrightstrust.org/ertdocumentbank/err9\\_mulheir.pdf](https://www.equalrightstrust.org/ertdocumentbank/err9_mulheir.pdf) [accessed 1 September 2021].

<sup>4</sup> Desmond, C., et al. (2020). Prevalence and number of children living in institutional care: global, regional, and country estimates. *Lancet Child Adolescent Health*. 4(5): 370-377. [https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642\(20\)30022-5/fulltext](https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642(20)30022-5/fulltext) [accessed 1 September 2021].

<sup>5</sup> *Ibid.*

<sup>6</sup> International Labour Organization (ILO). (2017). *Global estimates of modern slavery: Forced labour and forced marriage*. [https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms\\_575479.pdf](https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf) [accessed 1 September 2021], p18.

<sup>7</sup> Article 3(a) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, (known as "the Palermo Protocol").

FOREWORD  
PROFESSOR PAROSHA CHANDRAN

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FIRST-HAND REFLECTION: RUTH WACUKA

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## KEY FINDINGS

- Currently, there is no generally accepted definition for the different forms of trafficking in the context of institutional care for children. The term **'institution-related trafficking'** is intended to remedy this and is used in this report. It refers to all manifestations of trafficking in the context of institutional care for children.
- There are a variety of international laws, policies and other mechanisms to **promote and protect the right of children to grow up in a family environment**, particularly in relation to those who are separated from their families or who suffer child abuse and exploitation. Further measures prohibit or criminalise the trafficking and exploitation of children in all its forms.
- Although the link between children's institutions and human trafficking was recognised by the United Nations General Assembly (UNGA) in 2019 in its Resolution on the Rights of the Child,<sup>8</sup> there are **very few examples of these two critical areas of child protection being formally recognised** and linked in laws, policies and systems. As a result, millions of children worldwide are exposed to institution-related child trafficking.
- Shortcomings in child protection systems, lack of accountability structures in institutional care, insufficient legal recognition of the phenomenon and misdirected financial support to orphanages around the world all **contribute to a system that enables the exploitation of children in vulnerable situations.**
- In order to address the gap in legislation, Lumos worked with Professor Parosha Chandran to develop a **Model Law on Institutional Childcare Trafficking for the Purpose of Financial Exploitation** (see Appendix 2 on page 101). It is hoped that this Model Law can serve as a basis for discussion to enable the application of effective laws to combat this problem and better protect children.
- This report highlights that institutional care systems can in themselves be a driver of child trafficking as well as a destination for children who have already been trafficked. Inadequate data and reporting mechanisms to monitor children in institutional care mean that many institutions are hotbeds for onward trafficking and can act as central components in child trafficking flows. Therefore, **institutional care can be considered both a cause and an outcome of human trafficking.**

These research findings identify four cycles in which institutional care and human trafficking are linked:



CHILDREN ARE RECRUITED AND TRAFFICKED INTO INSTITUTIONS FOR THE PURPOSE OF FINANCIAL PROFIT AND OTHER FORMS OF EXPLOITATION – ALSO KNOWN AS 'ORPHANAGE TRAFFICKING'.



CARE LEAVERS ARE MORE AT RISK OF EXPLOITATION AND TRAFFICKING.



CHILDREN ARE TRAFFICKED OUT OF INSTITUTIONS INTO OTHER FORMS OF EXPLOITATION.



CHILD TRAFFICKING VICTIMS AND UNACCOMPANIED CHILDREN ARE PLACED IN INSTITUTIONS FOR THEIR 'PROTECTION', WHICH CAN PUT THEM AT RISK OF TRAFFICKING AND RE-TRAFFICKING.

- **Orphanage trafficking** is a form of child trafficking described as "the recruitment of children into residential care institutions for the purpose of profit and exploitation"<sup>9,10</sup> Orphanage volunteering – and the industry that has sprung up to support it – has contributed to a global ecosystem that creates a demand for institutions, often run for profit, and for children who can be marketed to foreign donor communities as alone, abandoned and in need of care. Some reports describe children being deliberately left malnourished and in poor conditions in order to raise more money from foreign donors and volunteers.<sup>11</sup>
- Separating children from their families and trafficking them into institutions helps to meet this demand. Trafficking in orphans is often linked to a process known as **'paper orphaning'**, where children are manufactured into orphans with forged identity documents. This can include "the falsification of parental death certificates, the production of new birth certificates, creation of paperwork attesting to abandonment or relinquishment, or children being coached to pose as orphans in the presence of volunteers and visitors".<sup>12</sup>
- Research consistently indicates that orphanage trafficking is more prevalent in countries where there is a significant tourism industry, with orphanages generally being established in key tourist areas.<sup>13</sup> In Cambodia, for example, the number of residential care institutions has increased by 75%, even though the number of orphans has decreased significantly.<sup>14</sup> In Uganda, the number of children in homes increased from just over 1,000 in the late 1990s to 55,000 now – despite a sharp decline in the number of orphans. **These orphanages are being built in tourist hotspots.**<sup>15</sup>
- There are numerous **additional safeguarding risks** specific to children trafficked into institutions such as orphanages. These are usually linked to the exploitation of children for additional financial gain and can include sexual abuse by volunteers or visitors, forced labour, performing shows or making gifts for visitors.
- A 'revolving door' of tourists and volunteers coming and going from an orphanage can also exacerbate psychological problems in children, akin to attachment disorders.<sup>16</sup> Children need long-term stable carers if they are to develop physical, cognitive, and emotional wellbeing throughout their lives. In the absence of their parents or primary caregivers, children in orphanages may form unnaturally quick bonds with visitors and volunteers, only to be followed by a form of grief when the individual leaves.<sup>17</sup> This cycle of attachment and abandonment repeats with every visitor or volunteer that comes along, and the experience can exacerbate existing attachment disorders and expose each child to repeated patterns of emotional and psychological harm.<sup>18,19</sup>

9 Van Doore, K. (2016). Paper Orphans: Exploring Child Trafficking for the Purpose of Orphanages. *International Journal of Children's Rights*, 24. <https://research-repository.griffith.edu.au/handle/10072/99655> [accessed 1 September 2021].

10 Under the UN definition of trafficking, orphanage trafficking would also include the receipt, transfer, transportation and harbouring of a child for the purposes of exploitation.

11 Lumos. (2016). *Orphanage Entrepreneurs: The Trafficking of Haiti's Invisible Children*. [https://lumos.contentfiles.net/media/documents/document/2017/12/Haiti\\_Trafficking\\_Report\\_ENG\\_WEB\\_NOV16.pdf](https://lumos.contentfiles.net/media/documents/document/2017/12/Haiti_Trafficking_Report_ENG_WEB_NOV16.pdf) [accessed 1 September 2021].

12 Van Doore, K. (2019). Orphanages as Sites of Modern Slavery. In: Cheer, J.M. et al. (Eds.), *Modern Day Slavery and Orphanage Tourism*. CABl.

13 Punaks, M & Feit, K. (2014). *The Paradox of Orphanage Volunteering: Combatting Child Trafficking Through Ethical Voluntourism*. Next Generation Nepal. <https://nextgenerationnepal.org/wp-content/uploads/2017/08/The-Paradox-of-Orphanage-Volunteering.pdf> [accessed 1 September 2021].

14 ReThink Orphanages. (n.d.). *Fact Sheet: The Orphanage Industry*. <https://bettercarenetwork.org/bcn-in-action/key-initiatives/rethink-orphanages/resources/fact-sheet-the-orphanage-industry> [accessed 1 September 2021].

15 VIVA. (n.d.). *Moses*. <http://www.viva.org/moses/> [accessed 1 September 2021].

16 Punaks, M & Feit, K. (2014). *Op. cit.*

17 Richter, L.M. & Norman, A. (2010). AIDS orphan tourism: A threat to young children in residential care. *Vulnerable Children and Youth Studies*, 5(3): 217-229. <https://www.tandfonline.com/doi/abs/10.1080/17450128.2010.487124> [accessed 1 September 2021].

18 This is illustrated well in the short film by The Umbrella Foundation & Forget Me Not. (2018). *Dear Volunteer*. <https://www.youtube.com/watch?v=c6NlNfH3tg> [accessed 1 September 2021].

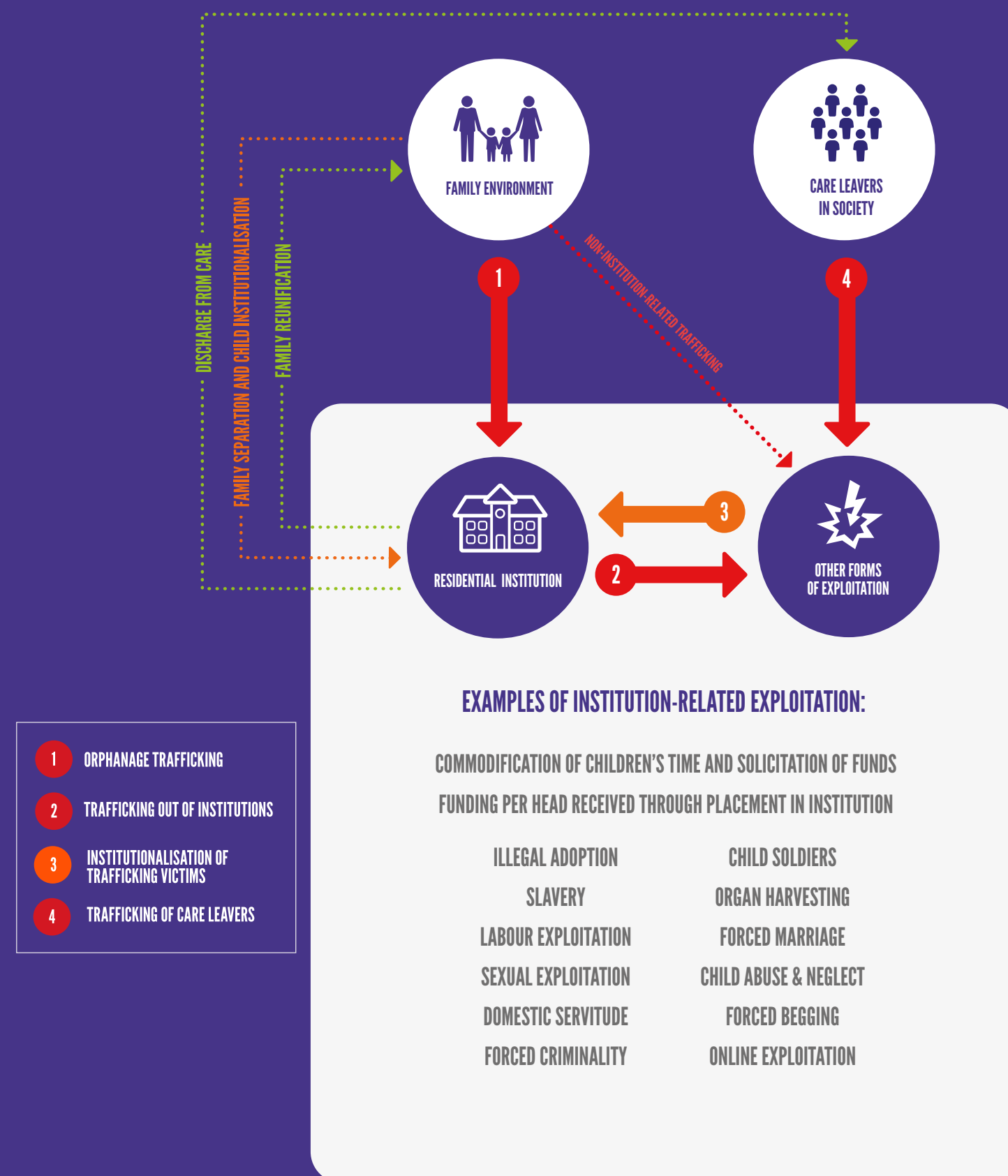
19 It is similarly covered in the campaign by Lumos. (2019). *#HelpingNotHelping*. <https://www.helpingnothelping.org/> [accessed 1 September 2021].

8 United Nations General Assembly (UNGA). (2019). *Resolution adopted by the General Assembly on 18 December 2019. A/RES/74/133*.

- **Trafficking of children out of institutions:** children in institutional care can be easy targets for traffickers seeking to exploit vulnerabilities for their own gain.<sup>20</sup> Children are trafficked out of institutions into other forms of exploitation including sexual abuse, forced labour and forced criminality. There is also global evidence of children in institutions being groomed, coerced and deceived into leaving institutions for what many assume will be a place of safety.<sup>21,22,23,24</sup>
- For traffickers, the lack of quality, consistent care provides an opportunity to exploit a child's need for emotional attachments to others. Traffickers are aware of the added vulnerability of children in institutions and are known to **target potential victims directly in or near institutions**, often taking advantage of the child's desire to run away.<sup>25,26</sup>
- Sometimes, the **institutions themselves are complicit or directly involved** in child trafficking.<sup>27</sup> In cases of sexual or labour exploitation, the institution can operate as a base from which children are made available to perpetrators for several hours or days before being returned to the institution.<sup>28</sup> In these instances, institutions may benefit directly or indirectly from the commercial exploitation of the child victims residing in them.
- Children are sometimes **trafficked out of institutions for the purpose of illegal adoption**, which may subsequently involve other forms of exploitation.<sup>29,30</sup> In some cases, children who are adopted illegally are entangled in two cycles of institution-related trafficking: first, they are trafficked into institutions for the purpose of an illegal adoption in which prospective adoptive parents pay fees, sometimes assuming that this is a normal part of the adoption processes; this may involve the falsification of identifications and documentation. Second, the children are trafficked out of the institution through the illegal adoption process and can end up falling victim to various types of exploitation.
- **Institutionalisation of child trafficking victims:** child victims of trafficking are regularly placed in institutions, either with the intention of protecting them or as a reaction by law enforcement because the child is not treated as a victim. This may be the case where children who have been trafficked and forced into sexual exploitation or gangs are not recognised as victims by law enforcement and criminal justice systems. Consequently, these children are sometimes sentenced to fines or placed in juvenile detention centres. At other times, children are placed in shelters simply because there seems to be no viable alternative.
 

The model on the following page shows how the four identified **cycles of institution-based trafficking intertwine** and what links to various types of exploitation have been established in this report.
- **Care leavers are particularly at risk of becoming victims of trafficking**, even if they are adequately supported in reintegrating into society after leaving an institution. Meeting the conditions set by social services can be challenging: in some cases, care leavers are required to have a job, complete higher education or have a clean criminal record in order to receive social assistance. The lack of essentials such as food and shelter can leave them at risk of trafficking and crime. In these cases, young men and women may be forced to live a life of sexual exploitation, begging or robbery in order to survive.
- This research highlights the critical data gap on the scale and prevalence of institution-related trafficking. Available data suggests that **children in institutional care appear to be overrepresented as victims of trafficking** compared to the overall child population.
- Although the exact scale of institution-related trafficking is unknown, the report unearths the alarming **global occurrence of trafficking into and out of institutions**. The two maps on pages 10 and 11 show the countries where evidence was found of children being trafficked into and out of institutions, highlighting important regional trends in the documented occurrence of institution-related trafficking.

## CONCEPTUAL MODEL: THE CYCLES OF INSTITUTION-RELATED TRAFFICKING



20 U.S. Department of State. (2018). *Trafficking in Persons Report: June 2018*. <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf> [accessed 1 September 2021].

21 Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

22 U.S. Department of State. (2018). *Op. cit.*

23 U.S. Department of State. (2019). *Trafficking in Persons Report: June 2019*. <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf> [accessed 1 September 2021].

24 U.S. Department of State. (2020). *Trafficking in Persons Report: 20<sup>th</sup> Edition*. <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> [accessed 1 September 2021].

25 ECPAT UK. (2014). *On the Safe Side*. <https://www.ecpat.org.uk/Handlers/Download.ashx?IDMF=d61788dc-0969-4134-a1cf-fc7c494b1a0> [accessed 1 September 2021].

26 U.S. Department of State. (2021). *Trafficking in Persons Report: June 2021*. [https://www.state.gov/wp-content/uploads/2021/07/TIP\\_Report\\_Final\\_20210701.pdf](https://www.state.gov/wp-content/uploads/2021/07/TIP_Report_Final_20210701.pdf) [accessed 1 September 2021].

27 Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

28 Martin, K. (2018). *Children in Russian Orphanage Allege Rape*. Human Rights Watch. <https://www.hrw.org/news/2018/03/05/children-russian-orphanage-allege-rape> [accessed 1 September 2021].

29 Pierre-Val, E. (2014). *L'expérience vécue par les mères haïtiennes vivant à Port-au-Prince ayant donné leur enfant en adoption internationale [The experience of Haitian mothers living in Port-au-Prince who have given their children up for international adoption]* [https://papyrus.bib.umontreal.ca/xmlui/bitstream/handle/1866/11534/Pierre-Val\\_Erick\\_2014\\_memoire%20pdf?sequence=4&isAllowed=y](https://papyrus.bib.umontreal.ca/xmlui/bitstream/handle/1866/11534/Pierre-Val_Erick_2014_memoire%20pdf?sequence=4&isAllowed=y) [accessed 1 September 2021].

30 Montarsolo, L. (2019). *La recherche des origines et les risques liés à l'adoption internationale: l'exemple du Sri Lanka [The search for origins and the risks relating to international adoption: the example of Sri Lanka]* <https://backtotheroots.net/wp-content/uploads/2019/05/La-recherche-dorigines-et-les-risques-lie%CC%81s-a%CC%80-ladoption-internationale-1.pdf> [accessed 1 September 2021], p58-61.



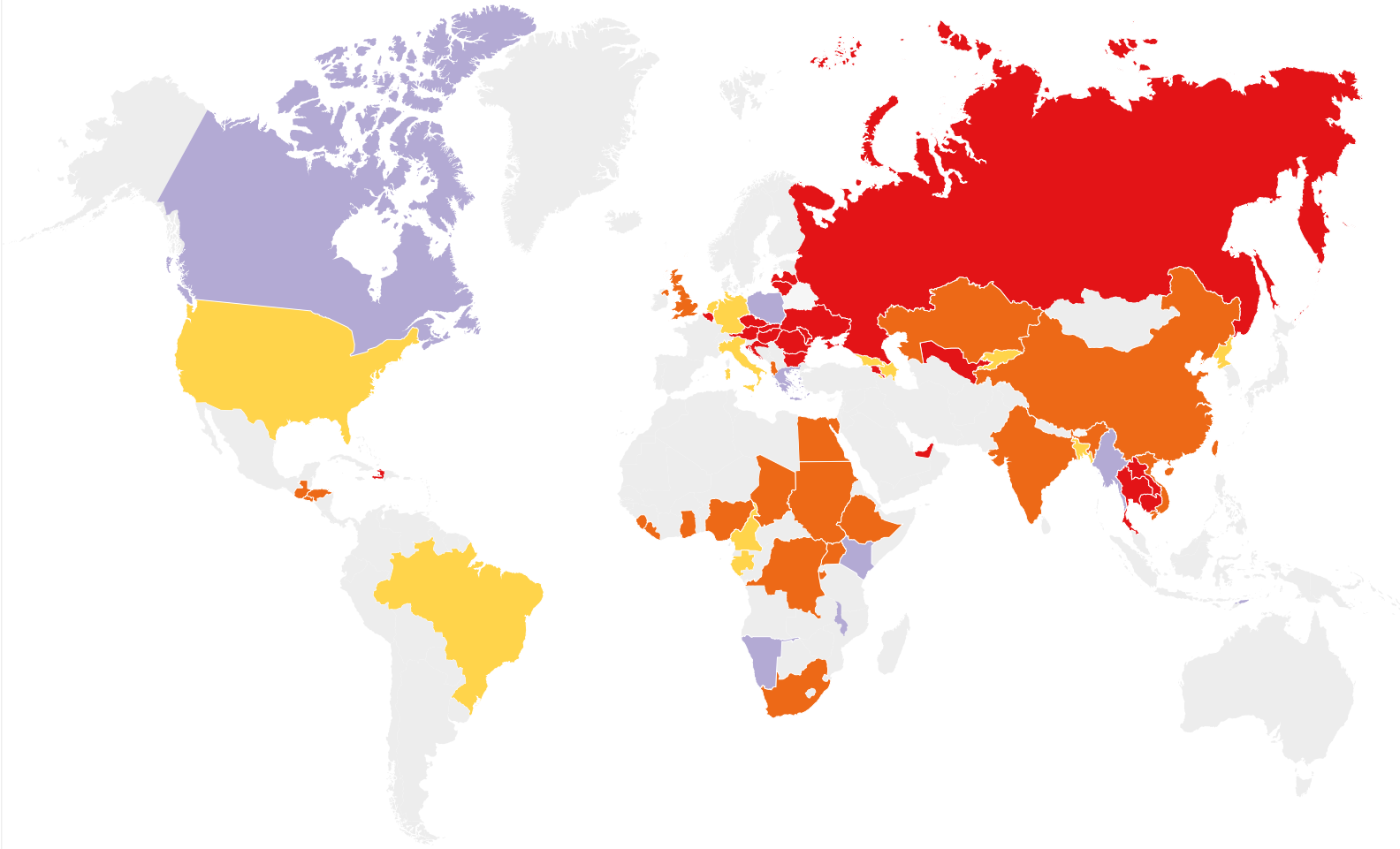
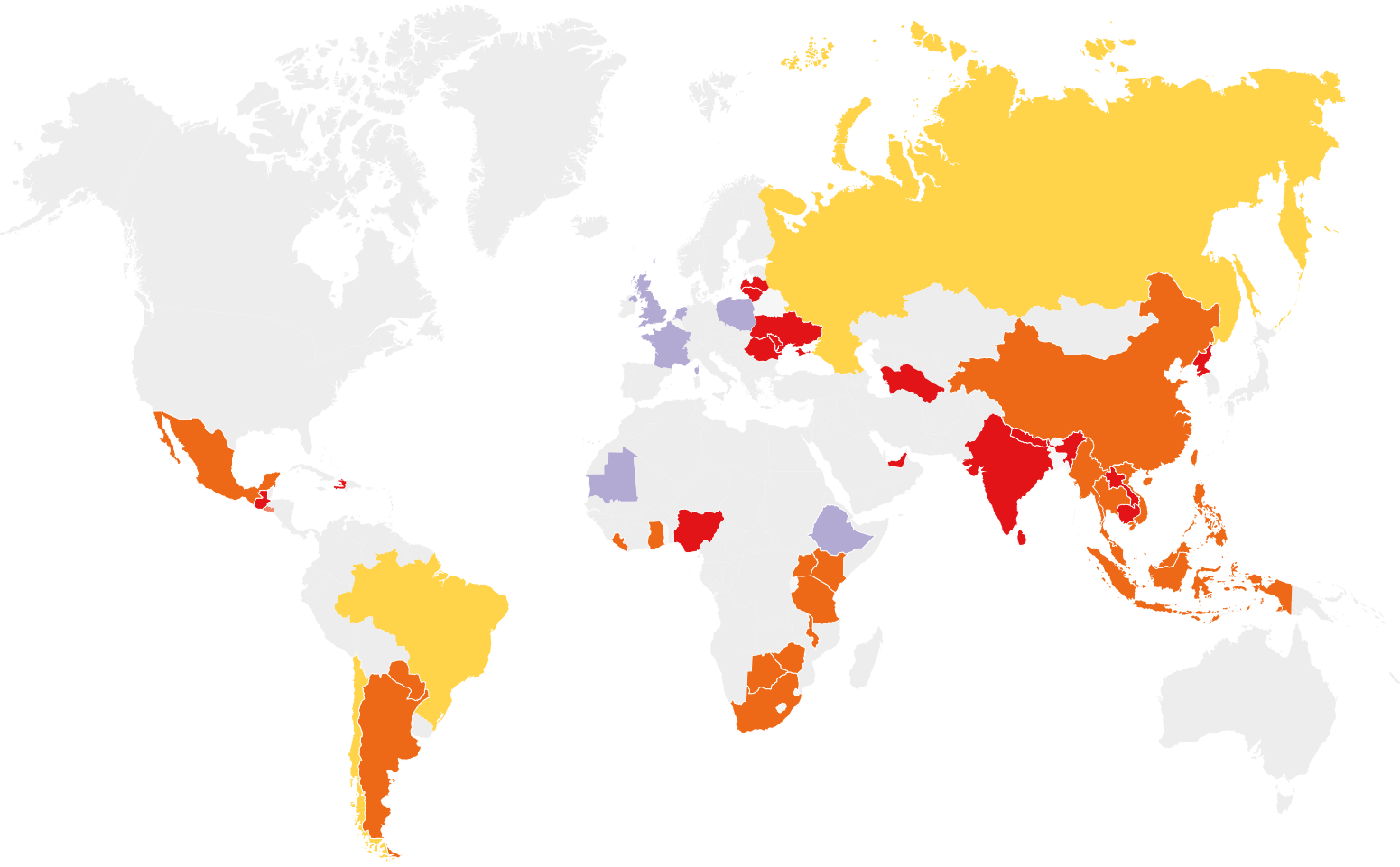
### MAP 1: DOCUMENTED GLOBAL OCCURRENCE OF TRAFFICKING INTO INSTITUTIONS

Country-level evidence from after 2000, including cases of exploitation of children residing in institutions and reports of increased vulnerability to human trafficking (broken down by most relevant evidence category)\*



### MAP 2: DOCUMENTED GLOBAL OCCURRENCE OF TRAFFICKING OUT OF INSTITUTIONS

Country-level evidence from after 2000, including reports of increased vulnerability of children to trafficking and exploitation outside institutions (broken down by most relevant evidence category)\*



- US Trafficking in Persons (TIP) report or United Nations Office on Drugs and Crime (UNODC) report (2017-2021)
- Academic literature source (2000-2020)
- Grey literature source (including media articles) (2000-2020)
- Call for evidence submission or key informant interview (2019-2020)
- No relevant evidence found

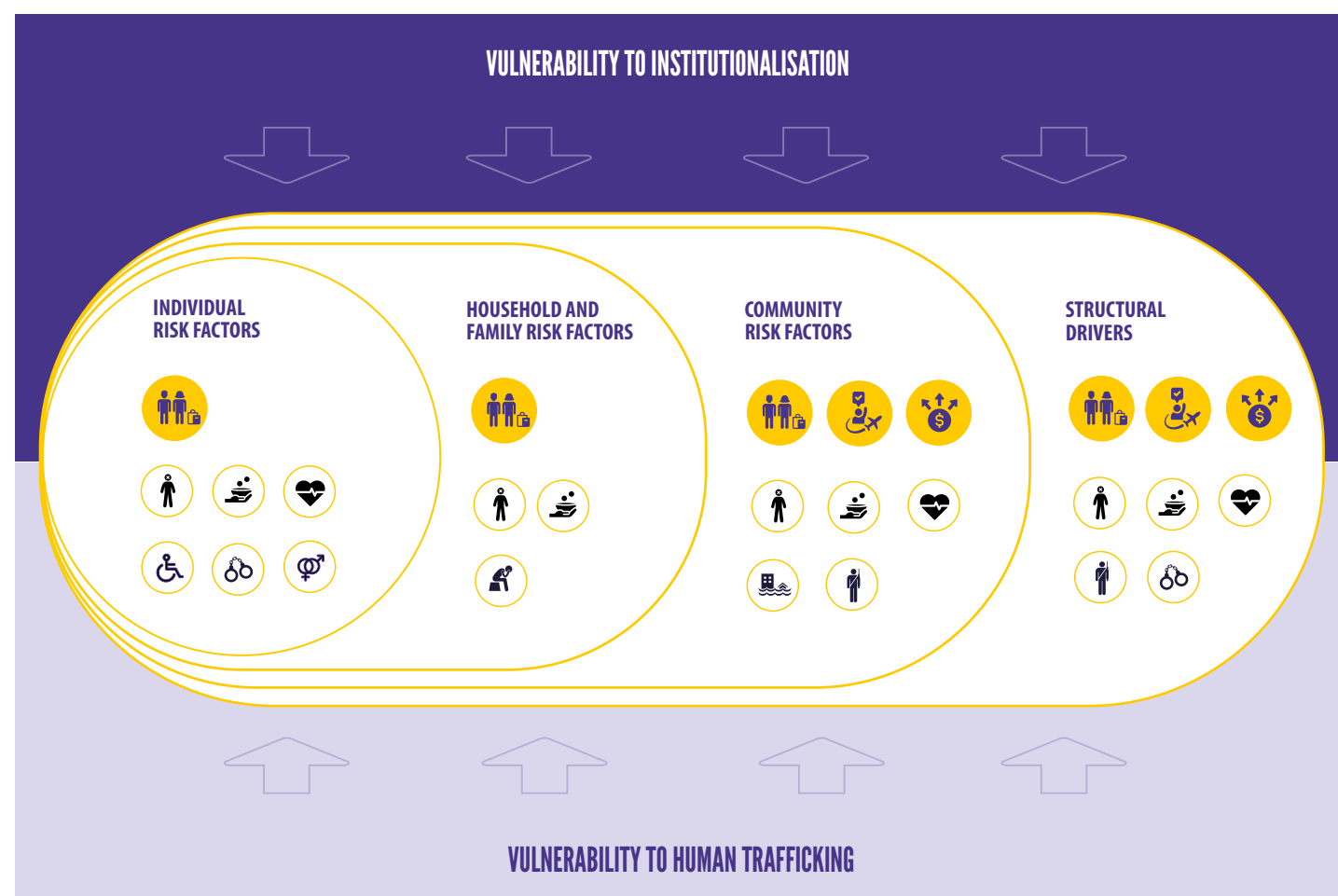
- US Trafficking in Persons (TIP) report or United Nations Office on Drugs and Crime (UNODC) report (2017-2021)
- Academic literature source (2000-2020)
- Grey literature source (including media articles) (2000-2020)
- Call for evidence submission or key informant interview (2019-2020)
- No relevant evidence found

\*An overview of the references for each country where relevant documented occurrences were identified as part of this research can be found in the separate methodology appendix.

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- The cycles of institution-related trafficking do not occur in isolation, but are underpinned by complex social, cultural, economic and environmental risk factors and drivers that occur across all four cycles. The study highlights how these **vulnerabilities drive the institutionalisation of children and increase the risk of institution-related trafficking for certain individuals and communities**. These include: gender, disability, abuse and neglect, poverty, armed conflict and community violence, illness, discrimination, and involvement with law enforcement. Each of these factors is explored through a detailed vulnerability model (see below).
- Many of these vulnerabilities are commonly experienced and can affect a child's life in multiple ways. This research identifies three vulnerabilities that are uniquely linked to institution-based child trafficking: **funding, orphanage volunteering and tourism, and unaccompanied migrant and refugee children**. Each of these is dealt with in the 'Spotlight' chapter.

## VULNERABILITY MODEL: RISKS AND DRIVERS OF INSTITUTION-RELATED TRAFFICKING



### SPOTLIGHTS

- FUNDING**
- VOLUNTEERING AND TOURISM**
- MIGRATION AND REFUGEE STATUS**

### GENERAL RISK FACTORS AND DRIVERS

- GENDER**
- DISABILITY**
- ABUSE AND NEGLECT**
- POVERTY**
- ARMED CONFLICT AND COMMUNITY VIOLENCE**
- NATURAL DISASTERS**
- ILLNESS**
- DISCRIMINATION**
- INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM**

- Funding:** Around the world, faith-based and other organisations and individuals are known to contribute substantial resources – financial, technical, human, and in-kind donations – to alleviate poverty, support healthcare, and provide emergency relief, often including children's institutions.<sup>31</sup> Lumos documented financial support to just over one-third of known Haitian orphanages and found that at least US\$70 million was donated to them annually, primarily by Christian donors from North America.<sup>32</sup> This extraordinary investment did not result in quality care and well-being for the children. At least 140 institutions were found to have extremely harmful living conditions where children were at high risk of violence, exploitation, abuse, neglect and preventable death.<sup>33</sup>
- Although investments in orphanages are largely well-intentioned, they reflect the short-term thinking of foreign donors. Understanding how this funding adversely affects children is an important part of dismantling a misguided industry that, at best, **exploits the good intentions of large numbers of people** while perpetuating an outdated model of care, and, at worst, **fuels child trafficking and abuse**.
- Orphanage volunteering** is a popular choice for school leavers and university students who have a desire to travel with a 'purpose' and demonstrate their altruism for the benefit of future academic or professional applications. The idea that there are millions of orphans worldwide in need of support (the 'orphan myth') is a driving force among prospective volunteers.<sup>34</sup> In addition, volunteering in orphanages is often facilitated and promoted by educational institutions, reputable travel and tourism companies and religious institutions around the world, further legitimising the activity and precluding critical evaluation of its impact on communities, families and children.<sup>35,36</sup>
- Migration** is an important driver of both trafficking and institutionalisation, especially for unaccompanied children. Unaccompanied children are often placed in institutions both during the journey and after arrival in the destination country, which often do not protect the children from trafficking and in some cases even facilitate their exploitation.

This report also benefits from Ruth Wacuka's first-hand reflections on her experience of living in an orphanage. Her recollections can be found on page 92.

## WHO IS THIS REPORT FOR?

It is hoped this report will be of use to:

- ✓ **Governments and policy makers across the world:** by highlighting the extent and nature of institution-related trafficking and providing evidence-based recommendations for practical and policy action, including through a Model Law.
- ✓ **Service providers, including those in the child protection and care sectors:** by identifying key vulnerabilities that increase the risk of children becoming victims of institution-related trafficking.
- ✓ **Law enforcement and anti-trafficking actors:** by highlighting a form of trafficking that is seldom prosecuted and requires urgent attention, including through a Model Law.
- ✓ **Civil society organisations and movements working on this issue:** by providing extensive international evidence on this phenomenon to improve advocacy efforts around the world.
- ✓ **Stakeholders supporting institutional care such as philanthropists, those involved in orphanage tourism, and charities:** by highlighting the harms and consequences of supporting institutional care for children and the need for family and community-based alternatives.

<sup>31</sup> Lumos. (2017). *Funding Haitian Orphanages at the Cost of Children's Rights*. <https://www.wearelumos.org/resources/funding-haitian-orphanages-cost-childrens-rights/> [accessed 1 September 2021].

<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> Cheney, K.E. & Rotabi, K.S. (2014). Addicted to Orphans: How the Global Orphan Industrial Complex Jeopardizes Local Child Protection Systems. In: Harker, C. et al. (Eds.), *Conflict, Violence and Peace. Geographies of Children and Young People*. 11. [https://link.springer.com/referenceworkentry/10.1007%2F978-981-4585-98-9\\_3-1#citeas](https://link.springer.com/referenceworkentry/10.1007%2F978-981-4585-98-9_3-1#citeas) [accessed 1 September 2021].

<sup>35</sup> Hicel, J. (2013). The 'Real Experience' industry: Student development projects and the depoliticisation of poverty. *Learning and Teaching*, 6(2): 11-32. [https://www.researchgate.net/publication/270099374\\_The\\_%27Real\\_Experience%27\\_industry\\_Student\\_development\\_projects\\_and\\_the\\_depoliticisation\\_of\\_poverty](https://www.researchgate.net/publication/270099374_The_%27Real_Experience%27_industry_Student_development_projects_and_the_depoliticisation_of_poverty) [accessed 1 September 2021].

<sup>36</sup> Georgeou, N. & McGloin, C. (2015). Looks Good on Your CV: The Sociology of Volunteering Recruitment in Higher Education. *Journal of Sociology*, 52(2): 403-417. <https://journals.sagepub.com/doi/abs/10.1177/1440783314562416> [accessed 1 September 2021].

# KEY RECOMMENDATIONS

See the recommendations section at the end of the report for a more detailed version.

## FOR NATIONAL GOVERNMENTS

### Implement Care Reform:

- Ensure family and community-based care is prioritised in all policies relating to the care and protection of children.
- Prioritise support for families.
- Ensure availability of family and community-based alternative care for those who need it.
- Assess and address spending on institutional care as part of a process of care reform.
- Engage care-experienced children and young people in care reform.

### Model Law:

- Adopt laws on institution-related child trafficking for the purpose of financial exploitation.

### Data collection and monitoring:

- Improve data collection and disaggregation so that all children are represented in systems that monitor the number and profile of children in institutional care.
- Ensure institution-related trafficking is recorded and included in national referral mechanisms.
- Ensure that there are effective regulations, control, and inspection of all residential care providers regardless of their nature (public or private).
- Implement systems that monitor and regulate funding.

### Orphanage tourism:

- All Governments should develop national policies that outlaw the practice of unskilled volunteering in children's institutions.
- All Governments should issue travel advice for citizens, warning against orphanage volunteering and visits.



## FOR LAW ENFORCEMENT, CHILD PROTECTION ACTORS AND CARE PROVIDERS

### Specialist support for children in care

- Ensure child-centric, integrated, individualised and trauma-informed support for suspected and identified child victims of trafficking.
- Provide children in residential care and care leavers with appropriate information and advice to equip them with the knowledge to stay safe.
- Provide care leavers with vocational training and work opportunities.
- Inform all children about their right to issue complaints and report abuse.

### Training for professionals:

- Provide accessible and regular training for child protection actors.
- Issue practical guidance to care providers.



## FOR VOLUNTEERS, TOURISTS AND AGENCIES

- Volunteering agencies and tourism companies should stop offering trips to children's institutions.
- Volunteers should not volunteer in children's institutions.
- Volunteers should reflect on the skills they have and how they could be used most effectively to support local needs.
- Volunteers should ask the agency informed questions and only accept trips where they can ensure their participation is ethical.
- Anyone currently volunteering in an orphanage who is concerned about harmful practices to children should contact the relevant local authorities.
- Private companies, universities and other organisations should ensure that they do not promote or engage with orphanage volunteering trips or visits.



## FOR PRIVATE FUNDERS

- Private funders should implement policies/guidelines clearly stating that they do not support the institutionalisation of children and underlining their commitment to care reform.
- Private funders/donors should ensure that the projects they support are not engaged in the trafficking of children.
- Private funders/donors should ensure that the projects they support link into a long-term vision and strategy of sustainable care transformation.
- Funders with an established relationship with an institution(s) should ensure a phased approach to ceasing support.



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# FOREWORD

BY PROFESSOR PAROSHA CHANDRAN

**I suspect that many people will be shocked by this report. They may recognise themselves as a well-intentioned orphanage volunteer, or as a generous donor who has supported children left vulnerable after a humanitarian disaster. Reading what follows may be the first time that they realise that they'd unwittingly played a part in propping up a harmful ecosystem in which children, most of whom have at least one living parent, act as commodities in an industry of profit-making orphanages.**

As a human rights barrister working in the field of human trafficking and modern slavery, I have been fighting for the protection of victims for nearly 25 years and I am acutely aware of the plethora of factors that render children more susceptible than anyone else to exploitation, abuse and human trafficking.

It was 2018 when I first came across Lumos' ground-breaking work to shine light on the disturbing spectre of cases where criminals recruit and use vulnerable children in orphanages and other residential institutions with the primary aim of exploiting the child's presence there to obtain personal profits from unsuspecting donors, funders and volunteers. In particular, one of Lumos' reports – *Orphanage Entrepreneurs: The Trafficking of Haiti's Invisible Children* – opened my eyes clearly to this form of child abuse. Later, in my discussions with Lumos, I was staggered to learn that 'orphanage trafficking' was taking place in many countries across the world. It made me wonder why the perpetrators of these grave crimes against children were able to get away with it. After investigating the issue further, including through discussions with the brilliant Australian lawyer Dr Kate Van Doore, who had first published possible legal responses to 'orphanage trafficking' in 2016,<sup>37</sup> I came to see that there were no laws in any of the affected countries which had or have enacted criminal legislation to directly combat this form of vice.

I was therefore honoured when Lumos asked me to lead its legal work on this issue and to draft a Model Law to assist States in criminalising and combating the trafficking of children into orphanages and other residential childcare institutions.

Simultaneously, Lumos raised a global call for evidence, inviting case examples and country profiles evidencing cases of orphanage trafficking worldwide.

This Global Thematic Review represents ground-breaking new research from Lumos and is a vital addition to the evidence base and to our collective understanding of how children's institutions can act as a central component in a web of child trafficking and abuse. In particular, it highlights four findings or ways in which child trafficking can be linked to institutional care. Lumos' research, which supports each one of these findings, makes for stark reading.

**...ASPECTS OF INSTITUTION-RELATED TRAFFICKING ARE DRIVEN BY THOSE WITH GOOD INTENTIONS, WHO ARE UNAWARE OR MISINFORMED ABOUT THE DEVASTATING RELATIONSHIP BETWEEN THEIR FINANCIAL OR OTHER DONATION AND CHILD TRAFFICKING...**

This report explores the complexity and significance of the relationship between institutional care for children and child trafficking. It highlights a cycle of trafficking that is currently not adequately recognised or responded to by legislation and child protection systems globally. The new evidence in this report, alongside a review of decades of research on the harms of institutional care for children and the increased risk of exploitation and abuse for children within these systems, calls for urgent action.

The Model Law that Lumos asked me to draft is published for the first time in this report. It aims to firmly capture under the criminal laws of any affected State the type of criminality that is perpetrated in this form of child trafficking. The Model Law is thus suggested as a blueprint that can assist States to review their legislation and enable a targeted response to combatting these crimes, whether the country is directly affected by child trafficking taking place in its orphanages and other residential institutions or is the country where the perpetrators of such crimes live, whether they are nationals or habitual residents. A careful assessment of the Model Law provisions by any State will highlight where their laws may need to be amended or improved, so as to both provide effective sanctions towards perpetrators and robust protection – as well as justice – for victims.

Through my work with Lumos, I have come to realise that children who are subjected to institutionalised care are extremely vulnerable to human trafficking, exploitation and abuse in a multitude of ways, all of which risk subjecting a child who is in need of care to grave, enduring harm. This special category of highly vulnerable children ultimately and urgently needs focused and intensified protection and it is the duty of all States the world over to sharply recognise the risks faced by such children and improve their legal responses, including by expressly criminalising the trafficking of children into institutionalised care.

The fact that many aspects of institution-related trafficking are driven by those with good intentions, who are unaware or misinformed about the devastating relationship between their financial or other donation and child trafficking, illuminates hope and possibility for change. This report provides valuable recommendations on how to address the specific vulnerability of children in, or at risk of, institutional care, for a range of stakeholders who can play a role in bringing about the change that is so vitally needed.

I implore coordinated action to be taken globally to prevent the exploitation and trafficking of some of the most vulnerable children in our world and to protect such children from abuse. Once we understand the spectre of all the four forms of institution-related trafficking that are described in this ground-breaking report by Lumos – and once we accept these lead to grave harm and abuse for vulnerable children in our societies – we surely have a moral imperative to act definitely and protectively. This means implementing concrete solutions that will ultimately enable children to be safe – and to feel safe – and which will support them in fulfilling their inherent and fundamental rights to a safe and protected upbringing, hopefully leading to the possibility of a nurturing childhood and the chance of a wonderful future.

<sup>37</sup> See Van Doore, K. (2016). *Op. cit.*

**AN ESTIMATED  
5.4 MILLION  
CHILDREN  
WORLDWIDE LIVE  
IN RESIDENTIAL  
INSTITUTIONS  
THAT NEGLECT  
THEIR RIGHTS**



## INTRODUCTION

Millions of children across the world are living in institutions, separated from their families and growing up without the love and attention they need to thrive. Children have a right to be looked after within a family, yet many are placed in institutions due to poverty, war, natural disaster, discrimination, disability, social exclusion and migration status.<sup>38,39,40,41,42,43</sup>

There is growing evidence of links between the institutionalisation of children and child trafficking, compounding the harms caused by each and offering insight into the global response that is needed. As the case continues to be made for care reform in many parts of the world, it is essential to recognise and understand these links if we are to put in place interventions, advocacy and policy to disrupt the systems and processes that adversely affect children's lives.

This report aims to synthesise and contribute to the global evidence base on the connections between human trafficking and institutional care for children. It is based on research that was conducted by Lumos between July 2019 and November 2020.

This introduction provides an overview of these themes and lays out a roadmap for the report.

### CHILDREN WITHOUT FAMILIES: THE HARM OF INSTITUTIONAL CARE

An estimated 5.4 million children worldwide live in residential institutions that neglect their rights,<sup>44</sup> including so-called orphanages.<sup>45</sup> Research consistently demonstrates that, on average, more than 80% are not orphans but have at least one living parent. With a little additional support, most children could live with their birth or extended families instead of in an institution.<sup>46</sup> Sometimes, a lack of services and support in the community means that parents might have no option but to leave their child in an institution.<sup>47,48</sup> This happens despite family and community-based alternatives generally being more cost-effective and better for children.<sup>49</sup>

38 Csáky, C. (2009). *Keeping Children Out of Harmful Institutions: Why We Should Be Investing in Family-Based Care*. Save the Children. <https://resourcecentre.savethechildren.net/library/keeping-children-out-harmful-institutions-why-we-should-be-investing-family-based-care> [accessed 1 September 2021].

39 Chaitkin, S. et al. (2017). *Towards the right care for children – Orientations for reforming alternative care systems Africa, Asia, Latin America*. European Union. <https://bettercarenetwork.org/library/principles-of-good-care-practices/transforming-institutional-care/towards-the-right-care-for-children-orientations-for-reforming-alternative-care-systems-in-africa> [accessed 1 September 2021].

40 EveryChild & Better Care Network. (2012). *Enabling reform. Why supporting children with disabilities must be at the heart of successful child care reform*. <https://bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/children-with-disabilities/enabling-reform-why-supporting-children-with-disabilities-must-be-at-the-heart-of-successful-child> [accessed 1 September 2021].

41 UNICEF. (2010). *At Home or In a Home: Formal Care and Adoption of Children in Eastern Europe and Central Asia*. <https://bettercarenetwork.org/library/principles-of-good-care-practices/transforming-institutional-care/at-home-or-in-a-home-formal-care-and-adoption-of-children-in-eastern-europe-and-central-asia> [accessed 1 September 2021].

42 Carter, R. (2005). *Family matters: a study of institutional childcare in Central and Eastern Europe and the former Soviet Union*. EveryChild. <https://resourcecentre.savethechildren.net/library/family-matters-study-institutional-childcare-central-and-eastern-europe-and-former-soviet> [accessed 1 September 2021].

43 Tinova, M et al. (2007). Children's services in Slovakia and their impact on the child's right to optimal development. Cited in: Browne, K. (2009). *The Risk of Harm to Young Children in Institutional Care*. Save the Children. <https://resourcecentre.savethechildren.net/document/risk-harm-young-people-institutional-care/> [accessed 1 September 2021].

44 Desmond, C., et al. (2020). *Op. cit.*

45 *Ibid.*

46 Csáky, C. (2009). *Op. cit.*

47 Chiwaula, L. et al. (2014). *Drumming together for change: A child's right to quality care in Sub-Saharan Africa*. The Centre for Excellence for looked after children in Scotland (CELCIS). [https://strathprints.strath.ac.uk/68548/1/CELCIS\\_etal\\_2014\\_Drumming\\_together\\_for\\_change\\_report.pdf](https://strathprints.strath.ac.uk/68548/1/CELCIS_etal_2014_Drumming_together_for_change_report.pdf) [accessed 1 September 2021].

48 Csáky, C. (2009). *Op. cit.*

49 Carter, R. (2005). *Op. cit.*

A recent global study highlighted the impact of institutionalisation on children's development, with evidence from over 300 studies across more than 60 countries.<sup>50</sup> It found that institutionalisation harms many aspects of children's development, especially their physical growth, cognition, and attention, as well as their socio-emotional development, mental health and ability to form attachments. Children need more than basic health, nutrition and sanitation if they are to thrive: they also need individualised, responsive care from a dependable adult – care that institutions, by their very nature, are unable to provide.<sup>51,52,53</sup>

The long-term impact can severely limit children's future life chances and young people leaving institutions often continue to face significant challenges as they move into adulthood.<sup>54</sup> Growing up in an environment with overly-structured routines and few opportunities to exercise choice is poor preparation for independent living, and young adults may lack the social skills and networks they need to live successfully in the community.<sup>55</sup>

Furthermore, the closed culture that often characterises institutions can result in an absence of robust safeguarding policies and practices, putting children at risk of neglect, physical or sexual abuse and violations of fundamental human rights.<sup>56,57</sup> The prevalence of physical and sexual abuse in residential care is higher than in other forms of care, even in countries where residential care is better resourced with smaller numbers of children per facility.<sup>58,59</sup> Children with disabilities are at even greater risk of abuse and neglect.<sup>60,61,62,63</sup>

The current COVID-19 pandemic is expected to increase the prevalence of children being separated from their parents and child exploitation.<sup>64,65</sup> Simultaneously, initial analysis in some contexts is highlighting a trend of rapid deinstitutionalisation, which for many children has meant returning to their families and communities upon closure of institutions, without the necessary assessment, preparation and support.<sup>66</sup> Reports have also highlighted concerns that social distancing restrictions have hampered orphanage inspections in some countries.<sup>67</sup> It will be crucial to monitor the impact that COVID-19 has on institution-related trafficking, both during the pandemic and beyond. For a more detailed discussion on the impact of the COVID-19 pandemic on children in institutions, see page 86.

**GLOBALLY, THERE  
ARE AN ESTIMATED  
9.965 MILLION  
CHILDREN IN  
MODERN SLAVERY...**

50 van Uzendoorn, M.H., Bakermans-Kranenburg, M.J., Duschinsky, R. et al. (2020). Institutionalisation and deinstitutionalisation of children 1: a systematic and integrative review of evidence regarding effects on development. *The Lancet Psychiatry*, 7: 703-20. [https://www.thelancet.com/pdfs/journals/lanpsy/PIIS2215-0366\(19\)30399-2.pdf](https://www.thelancet.com/pdfs/journals/lanpsy/PIIS2215-0366(19)30399-2.pdf) [accessed 3 June 2021].

51 Berens, A.E. & Nelson, C.A. (2015). *Op. cit.*

52 Dozier, M., et al. (2014). *Op. cit.*

53 Mulheir, G. (2012). *Op. Cit.*

54 Csáky, C. (2014). *Why Care Matters: The importance of adequate care for children and society*. Family for Every Child. <https://www.familyforeverychild.org/why-care-matters?locale=en> [accessed 23 Jul 2021].

55 *Ibid.*

56 van Uzendoorn, M.H., Bakermans-Kranenburg, M.J., Duschinsky, R. et al. (2020). *Op.cit.*

57 Behal, N., Cusworth, L., Wade, J. et al. (2014). Keeping Children Safe: Allegations Concerning the Abuse or Neglect of Children in Care. <http://www.york.ac.uk/inst/spru/research/pdf/Abuseincare.pdf> [accessed 1 September 2021].

58 *Ibid.*

59 Euser, S., Alink, L.R., Tharner, A., et al. (2013). The prevalence of child sexual abuse in out-of-home care: a comparison between abuse in residential and in foster care. *Child Maltreatment*, 18(4): 221-31.

60 Milovanovic, et al. (2013). *The Hidden and Forgotten: Segregation and Neglect of Children and Adults with Disabilities in Serbia*. <http://www.mdri-s.org/wp-content/uploads/2013/10/the-hidden-and-forgotten-2013-12-17.pdf> [accessed 23 July 2021].

61 UNICEF. (2007). Promoting the Rights of Children with Disabilities. *Innocenti Digest* 13. <https://www.unicef-irc.org/publications/474-promoting-the-rights-of-children-with-disabilities.html> [accessed 1 September 2021].

62 EveryChild & Better Care Network. (2012). *Enabling reform. Why supporting children with disabilities must be at the heart of successful child care reform*. [http://bettercarenetwork.org/sites/default/files/Enabling%20Reform%20-%20Why%20Supporting%20Children%20with%20Disabilities%20Must%20Be%20at%20the%20Heart%20of%20Successful%20Child%20Care%20Reform\\_0.pdf](http://bettercarenetwork.org/sites/default/files/Enabling%20Reform%20-%20Why%20Supporting%20Children%20with%20Disabilities%20Must%20Be%20at%20the%20Heart%20of%20Successful%20Child%20Care%20Reform_0.pdf) [accessed 1 September 2021].

63 Ahern, L. & Rosenthal, E. (2006). *Hidden Suffering: Romania's Segregation and Abuse of Infants and Children with Disabilities*. Mental Disability Rights International. [http://www.driadvocacy.org/wp-content/uploads/romania-May-9-final\\_with-photos.pdf](http://www.driadvocacy.org/wp-content/uploads/romania-May-9-final_with-photos.pdf) [accessed 1 September 2021].

64 Better Care Network et al. (2020). Protection of Children During the Covid-19 Pandemic: Children and Alternative Care. <https://bettercarenetwork.org/sites/default/files/2020-04/COVID-19AlternativeCareTechnicalNote.pdf> [accessed 30 April 2021].

65 United Nations Office on Drugs and Crime (UNODC). (2020). *COVID-19 crisis putting human trafficking victims at risk of further exploitation, experts warn*. <https://news.un.org/en/story/2020/05/1063342> [accessed 30 April 2021].

66 Punaks, M. & Lama, S. (2021). Orphanage Trafficking and Child Protection in Emergencies in Nepal: A Comparative Analysis of the 2015 Earthquake and the 2020 COVID-19 Pandemic. *Institutionalised Children Explorations and Beyond*, 8(1): 26-37. <https://journals.sagepub.com/doi/full/10.1177/2349300320975547> [accessed 1 September 2021].

67 U.S. Department of State. (2021). *Op. cit.*

## THE IMPACT OF CHILD TRAFFICKING

Globally, there are an estimated 9.965 million children in modern slavery, covering all forms of forced labour (including sexual exploitation) and forced marriage.<sup>68</sup>

Child trafficking puts children's lives at risk and can cause serious and permanent harm. Children who have been trafficked may have suffered the trauma of separation from their families and usually experience poor living and working conditions and maltreatment, causing adverse physical, sexual and mental health consequences. Child trafficking for sexual and labour exploitation is associated with high rates of violence and work-related injuries, respiratory, digestive and sexual health problems, body pains and headaches, dizziness and memory problems,<sup>69,70,71,72</sup> alongside anxiety, depression, post-traumatic stress and suicidal ideation.<sup>73,74</sup> Unsurprisingly, being exposed to harmful conditions can affect children's development to a point where they may survive but will be unable to thrive.<sup>75</sup>

Risk factors for child trafficking include prior abuse and neglect, family dysfunction, substance abuse, as well as gender, sexuality, religious or disability-related discrimination, all of which leave children more vulnerable to deception and/or coercive working arrangements.<sup>76,77</sup> Conflict, climate or livelihood induced migration, particularly for unaccompanied children, is also associated with risk of trafficking.<sup>78</sup> This report explores vulnerabilities, risk factors and drivers at the nexus of human trafficking and institutionalisation in more detail on page 69.

## INSTITUTION-RELATED TRAFFICKING: CYCLES OF EXPLOITATION

In addition to the harms associated with both the institutionalisation and the trafficking of children, there is increasing evidence of the links between the two. The evidence in this report points to child trafficking being a driver as well as an outcome of institutional care, with institutions also playing what appears to be a significant role in many instances of child exploitation and abuse.

This research identifies four main ways in which residential institutions are linked to child trafficking, which are described throughout the report as 'institution-related trafficking':

- **Children are recruited and trafficked into institutions for the purpose of financial profit ('orphanage trafficking'), and other forms of exploitation.**
- **Children are trafficked out of institutions into other forms of exploitation.**
- **Child trafficking victims and unaccompanied children are often placed in institutions for their 'protection', which can put them at risk of trafficking and re-trafficking.**
- **Care leavers are more at risk of exploitation and trafficking.**

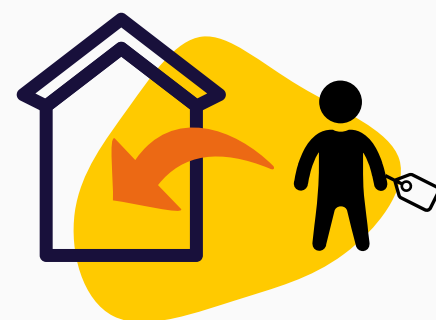
This report highlights these cycles as a truly global phenomenon, as opposed to being confined to isolated orphanages, countries or regions.

For a definition of institution-related trafficking, see the Core Concepts on page 33. The individual cycles are explored in more detail on page 47.

## THE FOUR CYCLES IN WHICH INSTITUTIONAL CARE AND HUMAN TRAFFICKING ARE LINKED



**CARE LEAVERS ARE MORE AT RISK OF EXPLOITATION AND TRAFFICKING.**



**CHILDREN ARE RECRUITED AND TRAFFICKED INTO INSTITUTIONS FOR THE PURPOSE OF FINANCIAL PROFIT AND OTHER FORMS OF EXPLOITATION – ALSO KNOWN AS 'ORPHANAGE TRAFFICKING'.**



**CHILD TRAFFICKING VICTIMS AND UNACCOMPANIED CHILDREN ARE PLACED IN INSTITUTIONS FOR THEIR 'PROTECTION', WHICH CAN PUT THEM AT RISK OF TRAFFICKING AND RE-TRAFFICKING.**



**CHILDREN ARE TRAFFICKED OUT OF INSTITUTIONS INTO OTHER FORMS OF EXPLOITATION.**

<sup>68</sup> International Labour Organization (ILO). (2017). *Op. cit.*, p18.

<sup>69</sup> Wood, L.C.N. (2020). Child modern slavery, trafficking and health: a practical review of factors contributing to children's vulnerability and the potential impacts of severe exploitation on health. *BMJ Paediatrics Open*. 4:e000327. <https://doi.org/10.1136/bmjpo-2018-000327> [accessed 1 September 2021].

<sup>70</sup> Kiss, L. et al. (2015). Health of men, women, and children in post-trafficking services in Cambodia, Thailand, and Vietnam: an observational cross-sectional study. *Lancet Glob Health*. [https://doi.org/10.1016/S2214-109X\(15\)70016-1](https://doi.org/10.1016/S2214-109X(15)70016-1) [accessed 1 September 2021].

<sup>71</sup> Pocock, N.S. et al. (2016). Labour Trafficking among Men and Boys in the Greater Mekong Subregion: Exploitation, Violence, Occupational Health Risks and Injuries. *PLOS ONE*. 11:e0168500. <https://doi.org/10.1371/journal.pone.0168500> [accessed 1 September 2021].

<sup>72</sup> Greenbaum, J. (2020). A Public Health Approach to Global Child Sex Trafficking. *Annual Review of Public Health*. 41:481-497. <https://doi.org/10.1146/annurev-publhealth-040119-094335> [accessed 1 September 2021].

<sup>73</sup> Ottisova, L., et al. Psychological consequences of child trafficking: An historical cohort study of trafficked children in contact with secondary mental health services. *PLoS One*. 13:e0192321. <https://doi.org/10.1371/journal.pone.0192321> [accessed 1 September 2021].

<sup>74</sup> Kiss, L., et al. (2015). Exploitation, Violence, and Suicide Risk Among Child and Adolescent Survivors of Human Trafficking in the Greater Mekong Subregion. *JAMA Pediatr*. 169:e152278. <https://doi.org/10.1001/jamapediatrics.2015.2278> [accessed 1 September 2021].

<sup>75</sup> Wood, L.C.N. (2020). *Op. cit.*

<sup>76</sup> *Ibid.*

<sup>77</sup> Greenbaum, J. (2020). *Op. cit.*

<sup>78</sup> Freccero, J. et al. (2017). Sexual exploitation of unaccompanied migrant and refugee boys in Greece: Approaches to prevention. *PLoS Med*. 14:e1002438.

## REPORT PURPOSE AND STRUCTURE

The research in this report will help advance our collective understanding of the nature of institution-related trafficking globally. It highlights evidence of institution-related trafficking from countries around the world and uncovers the different roles of those who contribute to exporting and upholding a model of care that harms children and fuels child trafficking.

It is hoped that the report's findings will provide knowledge and tools for effective advocacy, training, policy and practice in diverse contexts around the world.

The chapters in this report provide critical analysis of institution-related trafficking around the world, based on the main research findings:

### CHAPTER 1 – CORE CONCEPTS

Provides an overview of the core concepts used in the report in relation to institution-related trafficking (note that additional definitions are provided in Appendix 1 on page 99).

### CHAPTER 2 – LAWS, POLICIES AND SYSTEMS

Provides an overview of laws, policies and systems related to institution-related trafficking.

To respond to the identified gap in legislative action, Lumos has worked with Professor Parosha Chandran in the development of a Model Law on Institutional Childcare Trafficking for the Purpose of Financial Exploitation (see Appendix 2 on page 101). It is hoped this Model Law can serve as a point of discussion to enable the application of effective laws to combat this issue and better protect children.

### CHAPTER 3 – PATTERNS AND DYNAMICS

Describes the patterns and dynamics of institution-related trafficking, examining each of the four main cycles in more detail.

### CHAPTER 4 – SCALE AND PREVALENCE

Explores the scale and prevalence of institution-related trafficking.

### CHAPTER 5 – VULNERABILITIES, RISKS AND DRIVERS

Looks at the vulnerabilities, risk factors and drivers that underpin and fuel institution-related trafficking.

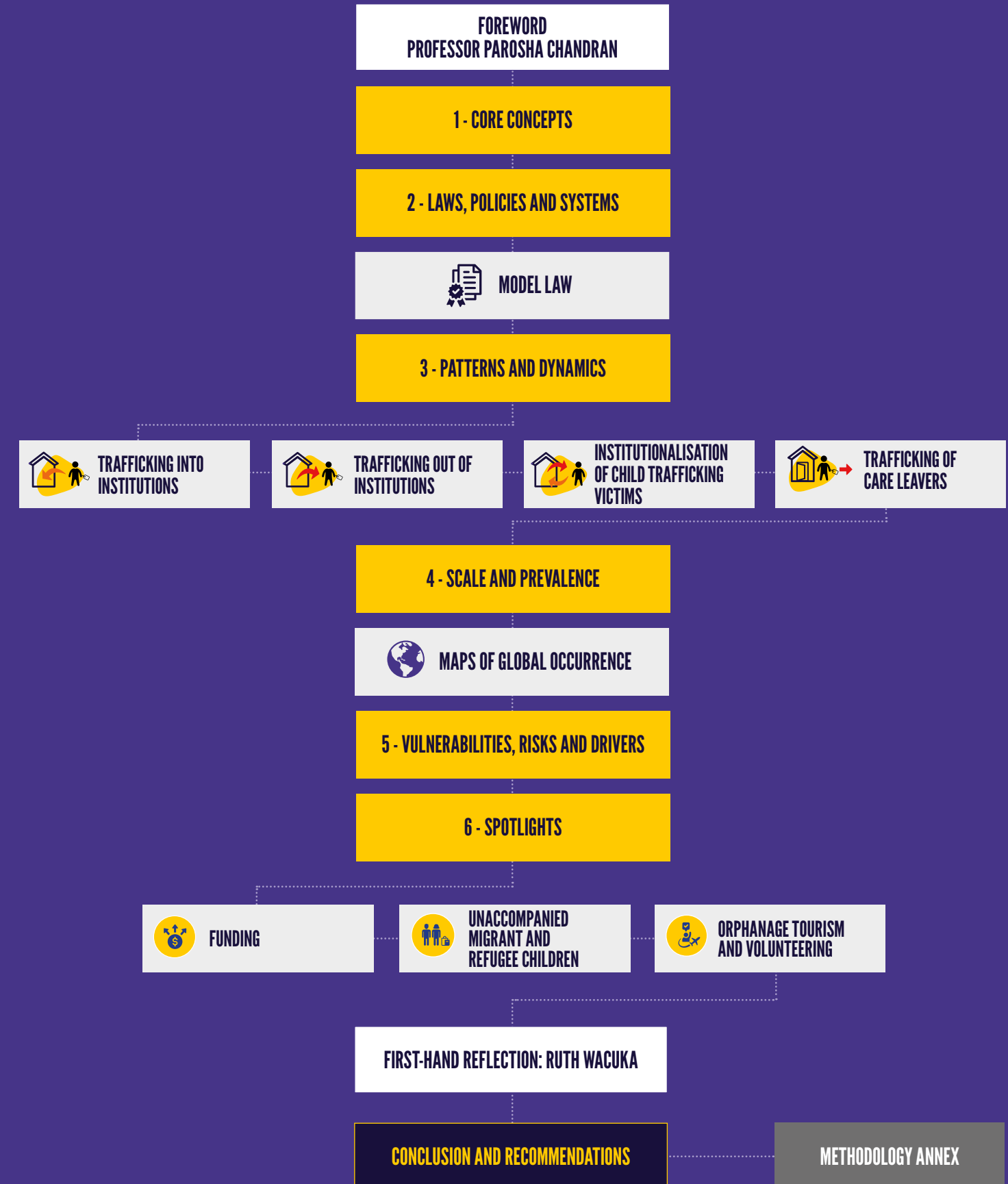
### CHAPTER 6 – SPOTLIGHTS

Spotlights three key drivers of institution-related trafficking in more detail: funding, orphanage tourism and volunteering, and unaccompanied migrant and refugee children.

A first-hand reflection on life in an orphanage is shared by Ruth Wacuka.

Finally, the Conclusion offers key findings from the report, followed by Recommendations for different groups of stakeholders in the child protection and anti-trafficking sectors.

Various case studies and spotlights are woven through the different chapters of the report to illustrate the diverse manifestations of institution-related trafficking around the world.



LUMOS RECEIVED  
SUBMISSIONS FROM  
ORGANISATIONS AND  
INDIVIDUALS FROM  
**45 COUNTRIES**  
ACROSS ALL REGIONS  
OF THE WORLD

## RESEARCH QUESTIONS AND METHODOLOGY

In order to appraise, synthesise and build on the current evidence base on institution-related trafficking in diverse contexts around the world, five thematic domains and corresponding research questions were selected:

- 1. Core concepts:** How can the core concepts around institution-related trafficking be described and defined?
- 2. Laws, policies and systems:** What laws, policies and systems currently govern institutional care for children and human trafficking in all its forms? How can the term 'orphanage trafficking' be legally defined and what would a model law to tackle it entail?
- 3. Patterns and dynamics:** How are children trafficked and exploited in different institutional care settings around the world?
- 4. Scale and prevalence:** What can new and existing evidence tell us about the estimated scale and prevalence of institution-related trafficking?
- 5. Vulnerabilities, risks and drivers:** Why do certain children become victims of institution-related trafficking? What drives institution-related trafficking?

### RESEARCH METHODS

This research builds on Lumos' publication '*Cracks in the System: Child Trafficking in the Context of Institutional Care in Europe*', published in 2020.<sup>79</sup> The *Cracks in the System* report identified the four types of institution-based child trafficking, specifically looking at relevant findings from the European context. This report, in turn, builds on a similar methodology and applies it globally, illustrating how the concept and model of facility-based trafficking manifests itself in different contexts. Five qualitative methods were used to answer the research questions:

#### Multilingual literature review

The literature review focused primarily on academic and grey literature in the fields of international child protection and anti-trafficking. These sources were supplemented by media articles and other relevant sources. To ensure a diversity of perspectives, the literature review was conducted in English, Chinese, Dutch, French, German, Italian and Spanish. For each research publication that was collected, the methods and sources were analysed and categorised based on their research type and design. The research did not include a structured systematic or scoping review.

#### Global call for evidence

Through a global call for evidence, the Lumos research team collected cases and evidence of human trafficking in different contexts. Available in English, Arabic, Bulgarian, Chinese, Czech, Dutch, French, German, Italian, Portuguese, Romanian, Russian and Spanish, the call for evidence sought to capture knowledge, experiences and perspectives that are underrepresented or absent in written sources. The call for evidence was sent out by Lumos to 1,185 organisations and individuals working in the fields of child protection and anti-trafficking around the world. Lumos received submissions from 84 organisations and individuals from 45 countries across all regions of the world.<sup>80</sup> The graph on the following page shows the number of organisations and individuals who submitted evidence in response to the call, broken down by country and region where the submission was made.<sup>81</sup> The geographical breadth of the information and evidence collected supported triangulation with the results of the literature review.

<https://doi.org/10.1371/journal.pmed.1002438> [accessed 1 September 2021].

<sup>79</sup> Lumos. (2020). *Cracks in the System: Child Trafficking in the Context of Institutional Care in Europe*. <https://www.wearelumos.org/resources/cracks-system/> [accessed 1 September 2021].

<sup>80</sup> See the Acknowledgements (page 3) for an overview of all the organisations and individuals who have agreed to be named in this report and the countries where their contributions were made. 25 organisations and individuals submitted evidence anonymously or did not wish to be named.

<sup>81</sup> The regional groupings reflect those used in the reports and statistical annexes for the SDG Indicators. See: United Nations. (n.d.). *SDG Indicators: Regional groupings used in Report and Statistical Annex*.

### Key informant interviews with international experts

Lumos conducted key informant interviews with eight international experts working at the intersection of anti-trafficking and alternative care. They were selected from the relevant professional contacts of the Lumos research team who were not able to respond to the call for evidence but were considered key thematic experts for the overall research. The experts interviewed were affiliated with the Organisation for Security and Cooperation in Europe (OSCE), the Better Care Network, Griffith University, the One Sky Foundation and Europol. The interviews were used to gain further insights that were not captured in the literature review or call for evidence.

### Country case studies

A number of shorter case studies were conducted, based on qualitative methods. These were selected following an analysis of the submissions received through the call for evidence and the literature review. The following case studies were conducted for each of the main thematic chapters:

- Laws, policies and systems: Australia
- Patterns and dynamics: Nepal, Cambodia, China, Indonesia, Ghana, Russia, Guatemala, Afghanistan, Albania
- Scale and prevalence: Netherlands, India
- Vulnerability, risks and drivers: Nepal, Liberia, Haiti

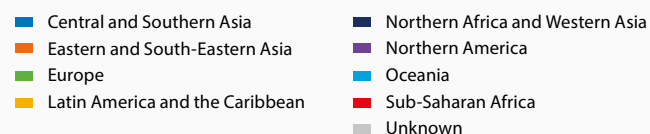
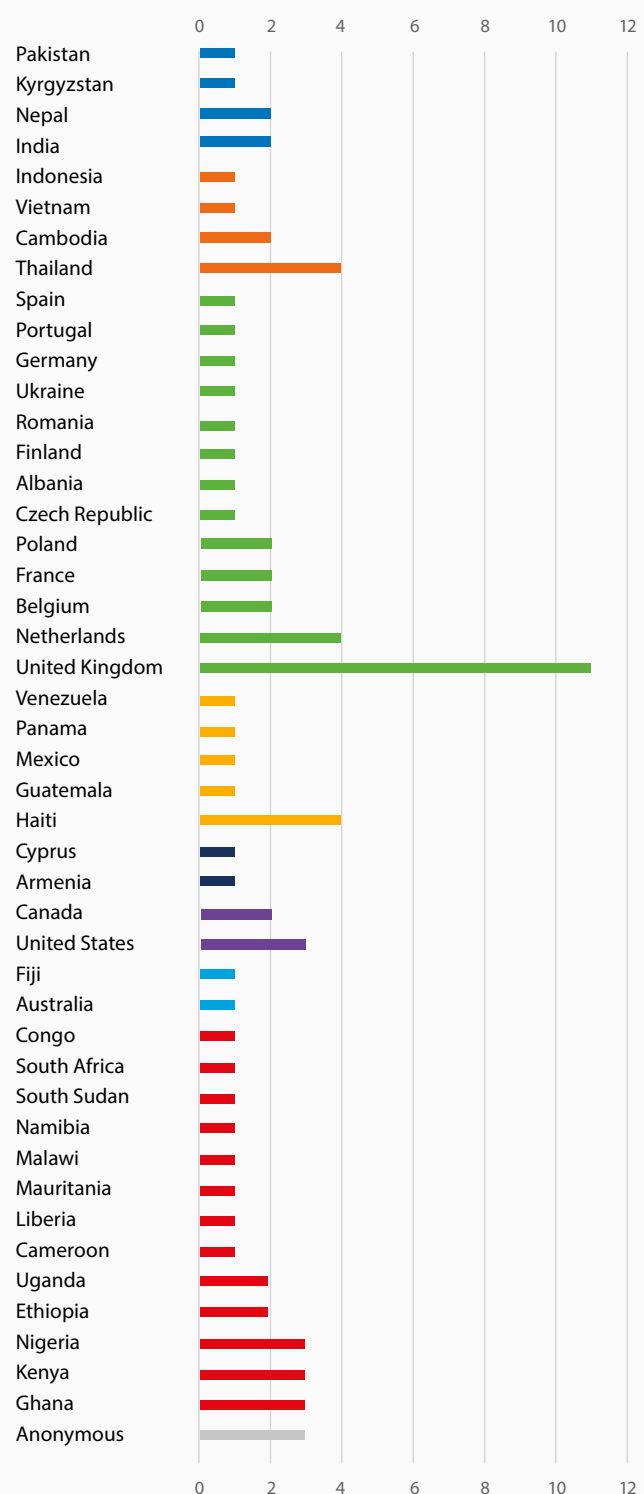
The case studies on the Netherlands and India focused on the analysis of relevant case law, while the other case studies were compiled primarily through a review of the available literature. Additional country case studies about institution-related trafficking in Hungary, Ukraine and the Netherlands can be found in Lumos' report *'Cracks in the System: Child Trafficking in the Context of Institutional Care in Europe'*.<sup>82</sup>

### Legal opinion and Model Law

A Model Law on Institutional Childcare Trafficking for the Purpose of Financial Exploitation was written by Professor Parosha Chandran to provide a legal opinion on the concept of 'orphanage trafficking' and to propose a definition that can be implemented in practice. The Model Law proposes a 'model legal clause' for tackling 'orphanage trafficking' from both a criminal law and supply chain perspective. To support the legal opinion and drafting of the model, two Expert Group Roundtable Meetings were convened in 2019, co-hosted by King's College London and Lumos. Experts present included civil society actors, experts from international and national organisations, and government representatives. Please see Appendix 2 (page 101) for the full Model Law and the accompanying preamble and commentary.

### Number of organisations and individuals who made evidence submissions per country (according to where the submissions were made)

The call for evidence took place in 2019.



### QUALITATIVE ANALYSIS

Once the data collection was completed, a thematic coding framework was created to structure the qualitative analysis. This framework outlines the main research questions and domains (as described on page 29). The qualitative analysis of the collected data was conducted using NVivo. Literature, call for evidence submissions and transcripts of key informant interviews were translated (where necessary), coded, summarised and analysed according to the thematic coding framework. The DfID<sup>83</sup> guidelines on critical appraisal and evidence assessment<sup>84</sup> were used to assess the main characteristics of the body of evidence identified, using three of four characteristics suggested in the guidelines: (2) Size of the body of evidence; (3) Context of the body of evidence; and (4) Consistency of the finding of studies constituting the body of evidence. The technical quality or risk of bias of individual studies (characteristic 1) was not assessed as part of the review, as explained in the limitations section below.

### RESEARCH LIMITATIONS

This research was conducted by Lumos between July 2019 and November 2020. The main purpose of this study is to analyse the current evidence base on institution-related trafficking worldwide using a qualitative and exploratory research design. As this report combines two largely separate areas of knowledge and research while identifying evidence gaps, it is limited in its ability to make generalisations about the scale, prevalence, patterns, dynamics, risks and drivers at a global level.

The research methodology was predominantly qualitative. There are significant data gaps and shortcomings in international and national monitoring systems on human trafficking and children in institutional care. As a result, the scale and prevalence of institution-related trafficking are difficult to estimate, rendering the possibilities for quantitative analysis limited.

This report attempts to analyse the phenomenon and problem of institution-related trafficking but does not address best practices to prevent and combat institution-related trafficking. Further research is needed to both develop quantitative indicators of institution-related trafficking and to examine and compare pertinent measures in policy and practice to combat it effectively.

Further limitations exist in relation to three of the main research methods:

- The **literature review** was not a structured systematic review or a review study. Therefore, it cannot be replicated as a research limitation. The literature review did not include an individual assessment of the technical quality or risk of bias of each study identified. In addition, although a number of languages were considered, existing literature in other languages was not included in this analysis. The literature analysed is also limited to the search platforms and terms used in the review (see the 'Methodology Annex' for an overview of the sources).
- The **call for evidence** was shared with and promoted among a wide range of organisations and individuals from around the world. The submissions received in response to the call for evidence therefore only reflect the stakeholders that Lumos was able to reach directly or indirectly. Therefore, although the call for evidence sought to be as diverse and representative as possible in contacting relevant organisations and individuals from around the world, some may have been missed.
- **Interviews** were conducted with eight international experts in the fields of anti-trafficking and alternative care, based on convenience sampling. Due to the qualitative nature of the interviews conducted, they do not reflect the views of all international experts working in this field.

A more detailed overview of the research design and methodology used in the report can be found in the separate 'Methodology Annex'.

<https://unstats.un.org/sdgs/indicators/regional-groups/> [accessed 1 September 2021].

<sup>82</sup> Lumos. (2020). *Cracks in the System: Child Trafficking in the Context of Institutional Care in Europe*.

<https://www.wearelumos.org/resources/cracks-system/> [accessed 1 September 2021].

<sup>83</sup> The UK Department for International Development (DfID) has been replaced by the Foreign, Commonwealth and Development Office (FCDO).

<sup>84</sup> UK Department for International Development (DfID). (2014). *Assessing the Strength of Evidence*.



## CHAPTER 1

## CORE CONCEPTS

NOT ALL CHILDREN'S INSTITUTIONS LOOK THE SAME OR OPERATE IN THE SAME WAY. SOME MAY BE RUN BY THE STATE, OTHERS BY PRIVATE PROVIDERS...

Effective advocacy, policy, and practice in combating institution-related trafficking depend on a common understanding of core concepts. For the purpose of this research, the following may be helpful. Additional definitions can be found in Appendix 1 (page 99).

### CHILDREN'S INSTITUTIONS

An institution is any residential setting where children are isolated from the wider community and are compelled to live with other children to whom they are not related. These children, and their families, do not have control over their lives or involvement in the decisions that affect them. Crucially, an institutional culture prevails, meaning that the requirements of the organisation tend to take precedence over the children's individual needs.<sup>85</sup>

Not all children's institutions look the same or operate in the same way. Some may be run by the state, others by private providers; some may have substantial resources while others may struggle to provide basic amenities. The term covers a range of residential facilities, which may be known as orphanages, compound/cluster facilities, reception centres for unaccompanied migrant children, residential health facilities and psychiatric wards, residential 'special schools', and some types of boarding schools.

### HUMAN TRAFFICKING AND CHILD TRAFFICKING

The internationally accepted definition of human trafficking is<sup>86</sup>:

*“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control of another person, for the purpose of exploitation.*

This definition comprises three core elements: the *act*, the *means*, and the *purpose of exploitation*.<sup>87</sup>

For a child to be recognised in law as the victim of trafficking, the 'means' element does not need to be present<sup>88</sup> (although coercion, deception or abduction may still have been factors). This means that a child cannot give informed or any consent to his or her own trafficking or exploitation, even if he or she agrees to it or understands what has happened.<sup>89</sup> A trafficker can never rely on a child having agreed to have been recruited or exploited, for example, as a defence to a trafficking charge.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/291982/HTN-strength-evidence-march2014.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/291982/HTN-strength-evidence-march2014.pdf) [accessed 8 June 2020].

<sup>85</sup> European Commission. (2009). *Report of the Ad Hoc Expert Group on the Transition from Institutional to Community-based Care*, p8-9. <https://ec.europa.eu/social/main.jsp?langId=en&catId=89&newsId=6148&furtherNews#:~:text=On%2023%20September%202009%2C%20a,care%20reform%20in%20their%20complexity> [accessed 4 June 2020].

<sup>86</sup> Article 3(a) of the Palermo Protocol, *Op. Cit.*

<sup>87</sup> United Nations Office on Drugs and Crime (UNODC). (n.d.). *Human Trafficking*. <https://www.unodc.org/unodc/en/human-trafficking/what-is-human-trafficking.html> [accessed 4 June 2020].

<sup>88</sup> As per article 3(c) of the Palermo Protocol, *Op. cit.* Hence, child trafficking occurs when one of the five acts, namely, the recruitment, transportation, transfer, harbouring or receipt of a child is done for the purpose of the exploitation of the child. Under article 3(d) of the Palermo Protocol, *Op. cit.*, a child is someone under the age of eighteen.

It is also unnecessary to prove that a child was physically moved in order for child trafficking to apply, as a child might be instead recruited, received or 'harboured' (ie, accommodated before or at the place of exploitation) for the purpose of exploitation, none of which require any travel. Child trafficking has been defined in some cases as "the profit-oriented and exploitative purpose of moving a child away from home into an isolated environment, with no support mechanisms, further exacerbating the child's susceptibility to manipulation."<sup>90</sup> This definition may be said to encapsulate the lived reality of many child victims of institution-related trafficking. However, every child who is accommodated in a residential childcare institution for the purpose of exploitation is a child victim of trafficking on account of the child having been 'harboured' there with the aim of exploiting the child.

'Domestic' or 'internal' trafficking occurs entirely within a country's borders without any international borders being crossed and can be difficult to identify. 'Transnational' or 'international' trafficking occurs when a person is trafficked across a state's international borders for the purpose of exploitation.

### INSTITUTION-RELATED TRAFFICKING

The research found that there is currently no definition for the different ways in which human trafficking occurs in the context of institutional care for children. The term 'institution-related trafficking' seeks to address this and is used throughout this report.

Institution-related trafficking refers to all the manifestations of human trafficking in the context of institutional care for children. This definition includes:

- trafficking into institutions ('orphanage' trafficking)
- trafficking out of institutions
- victims of child trafficking being placed in institutions
- the trafficking of care leavers.

It also includes any other forms of trafficking where the victim has a history, present or future, of institutionalisation. It is the central definition used in this report to analyse the connections between trafficking and institutions.



The **Model Law** (page 106) proposes a more detailed definition and discussion of institutional childcare trafficking for the purpose of financial exploitation in the context of international law.

### ORPHANAGE TRAFFICKING

The trafficking of children into institutions – also referred to as orphanage trafficking – represents one type of institution-related trafficking. Described as "the recruitment of children into residential care institutions for the purpose of profit and exploitation,"<sup>91,92</sup> orphanage trafficking typically involves the false construction of a child's identity as an orphan, known as 'paper orphaning'. This can be driven by orphanage tourism and volunteering.<sup>93</sup>

**INSTITUTION-RELATED TRAFFICKING  
REFERS TO ALL THE MANIFESTATIONS  
OF HUMAN TRAFFICKING IN THE CONTEXT  
OF INSTITUTIONAL CARE FOR CHILDREN.**

**ONE FORM OF INSTITUTION-RELATED  
TRAFFICKING, ORPHANAGE TRAFFICKING,  
TYPICALLY INVOLVES THE FALSE  
CONSTRUCTION OF A CHILD'S IDENTITY AS  
AN ORPHAN KNOWN AS 'PAPER ORPHANING'.**

<sup>89</sup> ECPAT. (n.d.). *What is child trafficking?* <https://www.ecpat.org.uk/faqs/what-is-child-trafficking> [accessed 4 June 2020].

<sup>90</sup> Arhin, A. (2012). Conceptualizing Child Labour Trafficking and Exploitation: The Case of Roma Children in Montenegro. *Temida*. 15(3): 161–186. p162.

<sup>91</sup> Van Doore, K. (2016). *Op. cit.*

<sup>92</sup> Under the UN definition of trafficking, orphanage trafficking would also include the receipt, transfer, transportation and harbouring of a child for the purposes of exploitation.

## CHAPTER 2

## LAWS, POLICIES AND SYSTEMS

A wide range of international laws, policies and other mechanisms exist to support children's rights, especially those who are separated from their families or suffer child abuse and exploitation. Additional measures prohibit or criminalise child exploitation in all its forms and are intended to protect children, including from human trafficking.

This chapter provides an overview of the various international frameworks that govern the care and protection of children, together with promising examples of how law and policy are being used to address the harm of institutions.



Despite the international instruments highlighted in this section, and the examples of promising practice to prevent and reduce the institutional care of children, there are significant gaps in addressing the links between institutions and child trafficking. This chapter concludes with a summary of a **Model Law on Institutional Childcare Trafficking for the Purpose of Financial Exploitation**, drafted by Professor Parosha Chandran. This appears in full in Appendix 2.

### FAMILY-BASED CARE

*"...the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding."<sup>94</sup>*

The **United Nations Convention on the Rights of the Child (CRC)** is the most comprehensive international legal framework related to children. It outlines a range of children's rights which, taken together, suggest that most children should live with and be cared for by their birth families.<sup>95</sup> It is the primary responsibility of parents to raise their children and the state is obliged to support parents so that they can fulfil that responsibility.<sup>96</sup>

In addition, the **Convention on the Rights of Persons with Disabilities (CRPD)** – while specifically relating to children with disabilities – reaffirms and specifies the rights of *all* children, including:

- the right to live with their families and be included in the community,
- the right to be included in education that meets their needs without segregating them from their peers, and
- the right to participate in decisions that affect them.<sup>97</sup>

The **Guidelines for the Alternative Care of Children**<sup>98</sup> affirm that children should be cared for by their families wherever possible – and that children living elsewhere should be reunited with their families if they can be.<sup>99</sup> The policy encourages governments to support struggling families as part of social welfare services.<sup>100</sup>

**EVERY CHILD AND YOUNG PERSON SHOULD LIVE IN A SUPPORTIVE, PROTECTIVE AND CARING ENVIRONMENT THAT PROMOTES THEIR FULL POTENTIAL.**

<sup>93</sup> Van Doore, K. (2016). *Op. cit.*

<sup>94</sup> United Nations Human Rights: Office of the High Commissioner (OHCHR). (1990). *Convention on the Rights of the Child*. E/CN.4/RES/1990/74, Preamble.

<sup>95</sup> *Ibid.*, Articles 7 & 9.

<sup>96</sup> *Ibid.*, Article 18.

<sup>97</sup> United Nations Department of Economic and Social Affairs (UN DESA). (2007). *Convention on the Rights of Persons with Disabilities*. Articles 2, 5, 7, 19, 23 & 24.

<sup>98</sup> United Nations General Assembly (UNGA). (2010). *Guidelines for the Alternative Care of Children*. A/RES/64/142.

<sup>99</sup> *Ibid.*

## CHILD TRAFFICKING AND CHILD EXPLOITATION

The CRC requires states to “take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form”.<sup>101</sup>

The **Palermo Protocol** provides the internationally agreed definition of human trafficking, including child trafficking.<sup>102</sup> In addition, various regional legal frameworks look to provide extensive protections for trafficked children. These include the Council of Europe Convention against Trafficking in Human Beings 2005,<sup>103</sup> the European Union Trafficking Directive 2011/36/EU and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children 2015.<sup>104</sup> Each of these requires countries to criminalise child trafficking as an aggravated form of trafficking. This recognises the vulnerability of children and allows for more stringent punishment for perpetrators.

The **Convention on the Rights of the Child (CRC)** specifies a range of circumstances in which children should be protected from economic, sexual and other forms of exploitation. This precludes children from conducting any work that is likely to be dangerous or to have an adverse impact on the child’s development, education, or any other aspect of their welfare.<sup>105</sup> The Optional Protocol to the CRC on the sale of children, child prostitution and child pornography<sup>106</sup> specifies particular forms of protection and assistance to be made available to child victims.

The **International Labour Organization (ILO) Worst Forms of Child Labour Convention**<sup>107,108</sup> prohibits using children for any one of the “worst forms of child labour”, including slavery, armed conflict, prostitution, the production of pornography, drug trafficking or any other harmful practices.<sup>109</sup> Notably, the ILO Convention requires states to reach out and identify children who are at special risk of any of the worst forms of child labour.<sup>110</sup>

In cases where international adoption is necessary for the best interests of the child, the CRC specifies that “improper financial gain” must not play a part in this.<sup>111</sup> The **Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption** (known as the Hague Adoption Convention) is the main instrument governing the issue of intercountry adoption. It prohibits “improper financial or other gain” from an activity related to intercountry adoption, noting that “only costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.”<sup>112</sup>

Further, the 2030 Agenda for Sustainable Development and the **Sustainable Development Goals (SDGs)**<sup>113</sup> provide a framework with three goals (5, 8, 16) having specific targets that reference child trafficking and exploitation.

<sup>100</sup> *Ibid.*, Principle 32.

<sup>101</sup> *Convention on the Rights of the Child*. (1990). *Op. cit.*, Article 35.

<sup>102</sup> See ‘Core Concepts’ on page 33.

<sup>103</sup> Council of Europe. (2005). *Council of Europe Convention on Action Against Trafficking in Human Beings*. CETS 197.

<sup>104</sup> ASEAN. (2015). *ASEAN Convention Against Trafficking in Persons, Especially Women and Children*.

<sup>105</sup> *Ibid.*, Articles 32 & 34.

<sup>106</sup> United Nations General Assembly (UNGA). (2001). *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*. A/RES/54/263. See for example Article 8.

<sup>107</sup> International Labour Organization (ILO). (1999). *Worst Forms of Child Labour Convention*. C182.

<sup>108</sup> See also International Labour Organization (ILO). (2000). *International Labour Organization Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour*. 2133 U.N.T.S. 161. 38 I.L.M. 1207.

<sup>109</sup> International Labour Organization (ILO). (1999). *Op. cit.*, Article 3.

<sup>110</sup> *Ibid.*, Article 7.

<sup>111</sup> *Ibid.*, Article 21.

<sup>112</sup> Hague Conference on Private International Law. (1993). *Hague Conference on Private International Law, Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption*, Article 32.2.

<sup>113</sup> United Nations High Commissioner for Refugees (UNHCR). (2017). *The Sustainable Development Goals and Addressing Statelessness*. <https://www.refworld.org/docid/58b6e3364.html> [accessed 22 May 2020], Goals 5.2, 16.2, 8.7.

## INSTITUTION-RELATED AND ORPHANAGE TRAFFICKING

In 2019, the links between institutions and child trafficking were recognised by the United Nations General Assembly (UNGA). For the first time, member states collectively expressed their deep concern over the harm that institutions can cause to children and called for them to be progressively phased out. In its historic Resolution on the Rights of the Child,<sup>114</sup> the UNGA set out the political and human rights case for transforming care systems and made some ground-breaking recommendations.

Crucially, the UNGA Resolution also recognised the link between orphanage tourism and child trafficking, with member states urged to act against orphanage tourism and volunteering.

**THE RESOLUTION ENCOURAGES MEMBER STATES TO TAKE “APPROPRIATE MEASURES TO PROTECT CHILDREN WHO ARE VICTIMS OF TRAFFICKING AND ARE DEPRIVED OF PARENTAL CARE, AS WELL AS ENACTING AND ENFORCING LEGISLATION TO PREVENT AND COMBAT THE TRAFFICKING AND EXPLOITATION OF CHILDREN IN CARE FACILITIES, AND SUPPORTING CHILDREN WHO ARE VICTIMS OF HUMAN TRAFFICKING IN RETURNING TO THEIR FAMILIES AND IN RECEIVING APPROPRIATE MENTAL HEALTH AND PSYCHOLOGICAL ASSISTANCE THAT IS VICTIM-CENTRED AND TRAUMA-INFORMED AND TAKING APPROPRIATE MEASURES TO PREVENT AND ADDRESS THE HARMS RELATED TO VOLUNTEERING PROGRAMMES IN ORPHANAGES, INCLUDING IN THE CONTEXT OF TOURISM, WHICH CAN LEAD TO TRAFFICKING AND EXPLOITATION”<sup>115</sup>.**

Children in institutions are also at risk of being trafficked for the purpose of international adoption. Even where policy or legal frameworks do exist, they may not be implemented. For example, children are known to have been trafficked out of institutions for adoption in countries as diverse as Haiti,<sup>116</sup> Sri Lanka,<sup>117</sup> and Romania<sup>118</sup>, despite the presence of legal frameworks regulating or prohibiting international adoption. Other differences between policy and practice have been documented in relation to orphanage volunteering in Nepal, where government efforts to curb the practice can be undermined by individual orphanages.<sup>119</sup> Furthermore, reports highlight that in some countries, owners of exploitative children’s institutions use political connections to thwart child protective agencies and prosecution, rendering these protective measures futile.<sup>120</sup>

Sometimes, child victims of institution-related trafficking are not recognised as such, meaning they are not given the support they need. This can happen even where policy frameworks exist and are implemented. In Latvia, for example, regulations did not previously allow people from state care institutions, such as orphanages, to enrol in the state trafficking victim assistance programme.<sup>121</sup> Exacerbating the issue further, children may not adequately and systematically be informed about their rights.<sup>122</sup>

<sup>114</sup> United Nations General Assembly (UNGA). (2019). *Resolution adopted by the General Assembly, 74/133. Rights of the child*.

<sup>115</sup> *Ibid.*, Part 35(t).

<sup>116</sup> Pierre-Val, E. (2014). *Op. cit.*

<sup>117</sup> Montarsolo, L. (2019). *Op. Cit.*

<sup>118</sup> Chilea, D. & Enache, A.G. (2011). Nouvelles formes de la traite des etres humain (New forms of human trafficking). *Curentul Juridic*. 45: 55-70. <https://ideas.repec.org/a/pmu/cjurid/v45y2011p55-70.html> [accessed 1 September 2021], p63-64.

<sup>119</sup> Lumos. (2019). [Call for evidence submission from Martin Punaks in the United Kingdom]. Unpublished data: on file with Lumos.

<sup>120</sup> U.S. Department of State. (2021). *Op. cit.*

<sup>121</sup> U.S. Department of State. (2019). *Op. cit.*

<sup>122</sup> Fundamental Rights Agency. (2015). *Mapping Child Protection Systems in the EU*. <https://fra.europa.eu/en/publication/2016/mapping-child-protection-systems-eu#Vettingoffosterfamiliesandresidentialcarepersonnel7> [accessed 22 May 2020].



Senator the Hon Linda Reynolds CSC  
Senator for Western Australia

## CASE STUDY – AUSTRALIA

Australia became the first country to recognise this type of exploitation in its *Modern Slavery Act (2018)*.<sup>123</sup> Here, Senator the Hon Linda Reynolds CSC describes how her work contributed to achieving this pioneering legislation.

I first learned about orphanage tourism during a Gates Foundation sponsored parliamentary visit to Cambodia in 2016 with Save the Children. I was shocked and horrified to learn that many orphanages exploited the good intentions of Australians and other Western volunteers through the trafficking of children to be used as tourist attractions.

Today, many millions of children globally are trapped and exploited in the most insidious ways. Australians would never allow our own vulnerable children to be exposed to busloads of foreign tourists – so why are we rushing to support the institutionalisation of children in other nations? Simply because we are told they are ‘poor’.

I returned home from Cambodia determined to alert my colleagues and community to this heinous practice and turned my mind and efforts to stopping orphanage tourism.

Big change never comes easily. It took time, advocacy and networking. I wrote to schools, I pushed for government-led awareness-raising campaigns and I teamed up with NGOs in Australia and around the world that were seeking to address this clear form of child exploitation.

After participating in a CPA UK forum on modern slavery for members of parliament, I realised that orphanage tourism and the associated trafficking of children is a form of modern slavery. I went on to sponsor the Parliamentary Inquiry into Establishing a Modern Slavery Act in Australia.

Through my partnerships with international organisations including Lumos, Save the Children and ReThink Orphanages, I learned that around 80% of children in orphanages are not ‘orphans’, having at least one living parent who can support

them. They are known as ‘paper orphans’ – children who have either been trafficked, or whose parents have voluntarily relinquished them under the mistaken belief that life in an orphanage would be better than life at home. The money associated with volunteering has driven orphanage trafficking, unnecessarily removing children from families and placing them in situations of exploitation and potential situations of physical and sexual assault over months and years, that can never be recovered in young lives.

In what was one of the proudest moments of my career, as the Assistant Minister for Home Affairs, I was responsible for the passage of Australia’s *Modern Slavery Act 2018*. The Australian Parliament became the first in the world to formally recognise orphanage tourism as trafficking and as a form of modern slavery. The Act’s centrepiece is an annual modern slavery reporting requirement for large companies, universities and charities. The Australian Government’s ‘Smart Traveller’ campaign has also been instrumental in educating Australians about the issue and how to make a difference in ethical and meaningful ways.

Since the passage of the *Modern Slavery Act 2018*, I have seen promising progress in the recognition and awareness of the harm caused by orphanages. There is a great deal more the world can do. The United Nations has acknowledged our work and the United Kingdom is looking to Australia as a model for tackling orphanage trafficking.

The question for us is two-fold – how do we redirect well-intentioned donations to projects that keep families together rather than tearing them apart? Secondly, how do we reunite the millions of ‘paper orphans’ with their families?

There is still so much to be done. The challenges are significant, and yet we have already demonstrated that by working together we can achieve big change. We are responsible for allowing this contemptible trade in children to thrive. Now, it is our responsibility to end it.

## THE IMPORTANCE OF CHILD PROTECTION SYSTEMS

The effectiveness of the laws and policies outlined on the previous page depends on adequate child protection systems being in place at a local level. However, the quality of child protection systems differs significantly across the globe and can even vary within countries. Where they do exist, there may be different approaches to accountability and monitoring systems, standards, and identification and reporting procedures.

In many countries, children who live away from their families have no specific protections. There may be no processes for investigating safeguarding concerns raised by children in alternative care settings, including concerns about the people who look after them. This leaves children vulnerable to abuse and can lead to incidents going unreported. For example, in many countries there is no formal requirement to conduct frequent reviews and checks on staff working in residential care,<sup>124</sup> increasing the risk of exploitation by those individuals. As another example, in the United Arab Emirates, officials of several state-run residential institutions and orphanages have allegedly been complicit or wilfully negligent in the sex and labour trafficking of girls and boys in their care.<sup>125</sup>

In conclusion, shortcomings in child protection systems, lack of accountability structures in institutional care, insufficient legal recognition of the phenomenon and misdirected financial support to orphanages around the world all contribute to a system that enables the exploitation of children in vulnerable situations.

Despite these structural shortcomings, there are also examples of promising progress in child protection practice in response to growing evidence of institutional harm and its links to child trafficking.

**SHORTCOMINGS IN CHILD PROTECTION SYSTEMS, LACK OF ACCOUNTABILITY STRUCTURES IN INSTITUTIONAL CARE, INSUFFICIENT LEGAL RECOGNITION OF THE PHENOMENON AND MISDIRECTED FINANCIAL SUPPORT TO ORPHANAGES AROUND THE WORLD ALL CONTRIBUTE TO A SYSTEM THAT ENABLES THE EXPLOITATION OF CHILDREN IN VULNERABLE SITUATIONS**

123 BBC. (2018). *Australia says orphanage trafficking is modern-day slavery*. <https://www.bbc.co.uk/news/world-australia-46390627>. [accessed 22 May 2020].

124 Fundamental Rights Agency. (2015). *Op. cit.*

125 U.S. Department of State. (2021). *Op. cit.*

## PROGRESS IN CHILD PROTECTION POLICY AND PRACTICE

- **KENYA** – In 2017, The Government of Kenya suspended the registration of new orphanages – known in Kenya as Charitable Children's Institutions (or CCIs) – citing inappropriate placement of children in institutions rather than in family-based care options, and expressed concerns about possible child trafficking. The moratorium is still in effect.
- **SOUTH AFRICA** – The Government of South Africa passed legislation to prevent the institutionalisation of children with special needs by ensuring financial support to these children in home environments.<sup>126</sup>
- **UGANDA** – In 2016, the Government of Uganda changed its guardianship and adoption laws to close loopholes and improve regulation of Inter-Country Adoption systems.<sup>127</sup> Unregulated adoption processes are shown within this report to have links with institution-related trafficking. The Ministry responsible for children's care and protection is working to close down unregistered residential care facilities and those deemed unsafe.
- **SRI LANKA** – Reports highlight increasing prosecutions and investigations in relation to allegations of sexual exploitation of children at a state-run orphanage.<sup>128</sup>
- **HAITI** – In October 2018, a moratorium was imposed to prevent new orphanages from being opened in Haiti. This is due to recognition by the Haitian government's Committee for the Fight Against Trafficking in Persons of the links between exploitation and child trafficking and the fact that children in orphanages are at extremely high risk.
- **JORDAN** – In 2017, the Jordanian Parliament approved a new law<sup>129</sup> that specifically called for the transition from institutions to family and community-based services.<sup>130</sup> This law enables children and adults with disabilities to live with their families and in their own communities, and will prevent unnecessary family separation. To implement care reform, the Jordanian Government developed a pioneering 10-year National Deinstitutionalisation (DI) Strategy for Persons with Disabilities, which was officially approved and launched in 2019.<sup>131</sup> This is the first DI strategy for persons with disabilities in the Middle East.
- **UK** – The harm of orphanages was recognised by the UK Government in a cross-government policy statement launched at the Global Disability Summit in July 2018. Penny Mordaunt, the former UK Secretary of State for International Development, made the announcement, stating that the UK Government will continue to tackle the underlying drivers of institutionalisation and work towards the long-term process of deinstitutionalisation. As a result, UK Aid Direct, which is funded by the UK Government's Foreign, Commonwealth and Development Office, enacted a regulation against funding orphanages.<sup>132</sup> An independent review<sup>133</sup> of the UK's Modern Slavery Act recommended that policy guidance be introduced to ensure 'orphanage trafficking' could be prosecuted under the scope of the Act.
- **NETHERLANDS** – In April 2019, the Dutch government held two roundtable debates on the issue of orphanage tourism following a White Paper on the harms of orphanage tourism and its links with trafficking. In June 2020 an investigation exploring the extent of volunteer travel from the Netherlands to residential care facilities for children was published by the Dutch Ministry of Foreign Affairs.<sup>134</sup> Several high-level actions were identified, spanning policy and public awareness-raising.
- **MOLDOVA** – The number of children in institutions in Moldova has reduced by 93% from 11,544 in 2007<sup>135</sup> to 747 by the end of 2020.<sup>136</sup>

<sup>126</sup> South Africa Department of Social Development. (2010). *Department of Social Development Strategic Plan 2010-2015*.

<sup>127</sup> Government of Uganda. (1997). *Chapter 59: The Children Act*, Article 49(1).

<sup>128</sup> U.S. Department of State. (2021). *Op. cit.*

<sup>129</sup> Higher Council for the Rights of Persons with Disabilities (HCD). (2007). *Law on the Rights of Persons with Disabilities*, No. 31.

<sup>130</sup> Human Rights Watch. (2017). *Jordan: Parliament Passes Human Rights Reforms*. <https://www.hrw.org/news/2017/10/04/jordan-parliament-passes-human-rights-reforms> [accessed 1 September 2021].

<sup>131</sup> Ministry of Social Development of the Kingdom of Jordan & Higher Council for the Rights of Persons with Disabilities. (2019). *National Strategy for the Deinstitutionalisation of Persons with Disabilities in Jordan*. <http://hcd.gov.jo/sites/default/files/Jordan%20DI%20strategy.pdf> [accessed 1 September 2021].

<sup>132</sup> UK Aid Direct. (n.d.). *What will not be funded*. <https://www.ukaidirect.org/about/what-will-not-be-funded/> [accessed 1 September 2021].

<sup>133</sup> Independent Review of the Modern Slavery Act. (2019). *Final report*. <https://www.gov.uk/government/publications/independent-review-of-the-modern-slavery-act-final-report> [accessed 22 May 2020].

<sup>134</sup> Dutch Ministry of Foreign Affairs. (2020). *Investigation of the extent of volunteer travel from the Netherlands to residential care facilities for children in low and middle-income countries: roles, responsibilities and scope for government action*. <https://www.rijksoverheid.nl/documenten/rapporten/2020/07/15/investigation-of-the-extent-of-volunteer-travel-from-the-netherlands-to-residential-care-facilities-for-children-in-low-and-middle-income-countries-roles-responsibilities-and-scope-for-government-action> [accessed 1 September 2021].

<sup>135</sup> Government of the Republic of Moldova. (2007). *Report on the rapid assessment of residential institutions for children in Moldova*.

<sup>136</sup> Moldovan Ministry of Health, Labour and Social Protection. (2021). *Annual Report for 2020 regarding children at risk and children separated from their parents*. <https://msmps.gov.md/wp-content/uploads/2021/05/Raport-CER-103-pentru-anul-2020.pdf> [accessed 2 Sept 2021], p14.

## • THE MISSING PIECE: A MODEL LAW

Despite the international instruments highlighted in this section, and the examples of promising practice to prevent and reduce the institutional care of children, there are significant gaps in addressing the links between institutions and child trafficking.

A key barrier is the lack of international agreement on the legal definition of, and response to, institution-related trafficking. Crucially, orphanage trafficking, that is trafficking into institutions for the purpose of financial exploitation, lacks adequate legal frameworks at the national and international level.

To respond to this identified gap in legislative action, Lumos worked with Professor Parosha Chandran on the development of a Model Law on Institutional Childcare Trafficking for the Purpose of Financial Exploitation<sup>137</sup> (see Appendix 2 on page 101). It is hoped this Model Law can serve as a point of discussion to enable the application of effective laws that can combat this issue and better protect children.



## MODEL LAW ON INSTITUTIONAL CHILDCARE TRAFFICKING FOR THE PURPOSE OF FINANCIAL EXPLOITATION

**DRAFTED BY PROFESSOR PAROSHA CHANDRAN FOR LUMOS AND APPEARING IN FULL IN APPENDIX 2.**

Currently, in the absence of legal recognition and response to the issue of orphanage trafficking, each perpetrator involved in the chain of trafficking a child into and within a residential childcare institution can continue their criminality with impunity, without fear of any interference, criminal investigation or prosecution.

The aim of this Model Law is to highlight, confront and support the introduction or amendment of laws that criminalise the actions of human traffickers who recruit and accommodate children in orphanages and other institutional childcare residences for the purpose of financial exploitation.

Many states may already have a number of provisions in their laws to combat existing forms of human trafficking but need to address this particular form of child trafficking. This is increasingly important, particularly in the absence of successful prosecutions of those who commit these crimes.

For those who are interested in advocating in favour of more robust legislation or understanding more about why these crimes are continuing unabated, please see the model law in Appendix 2.

<sup>137</sup> Please note that the Model Law deals specifically with orphanage trafficking, ie trafficking into institutions, as a particular cycle of institution-related trafficking.

## CHAPTER 3

## PATTERNS AND DYNAMICS

This chapter examines the patterns and dynamics of institution-related trafficking in more detail and identifies four specific cycles of trafficking linked to institutions. Each of the four cycles is discussed and illustrated through a range of short case studies.

A conceptual model is used to explain the relationships between each of the four cycles and various types of exploitation.

#### THE FOUR CYCLES OF INSTITUTION-RELATED TRAFFICKING: A CONCEPTUAL MODEL

Based on the research findings, four cycles of institution-related trafficking can be identified:

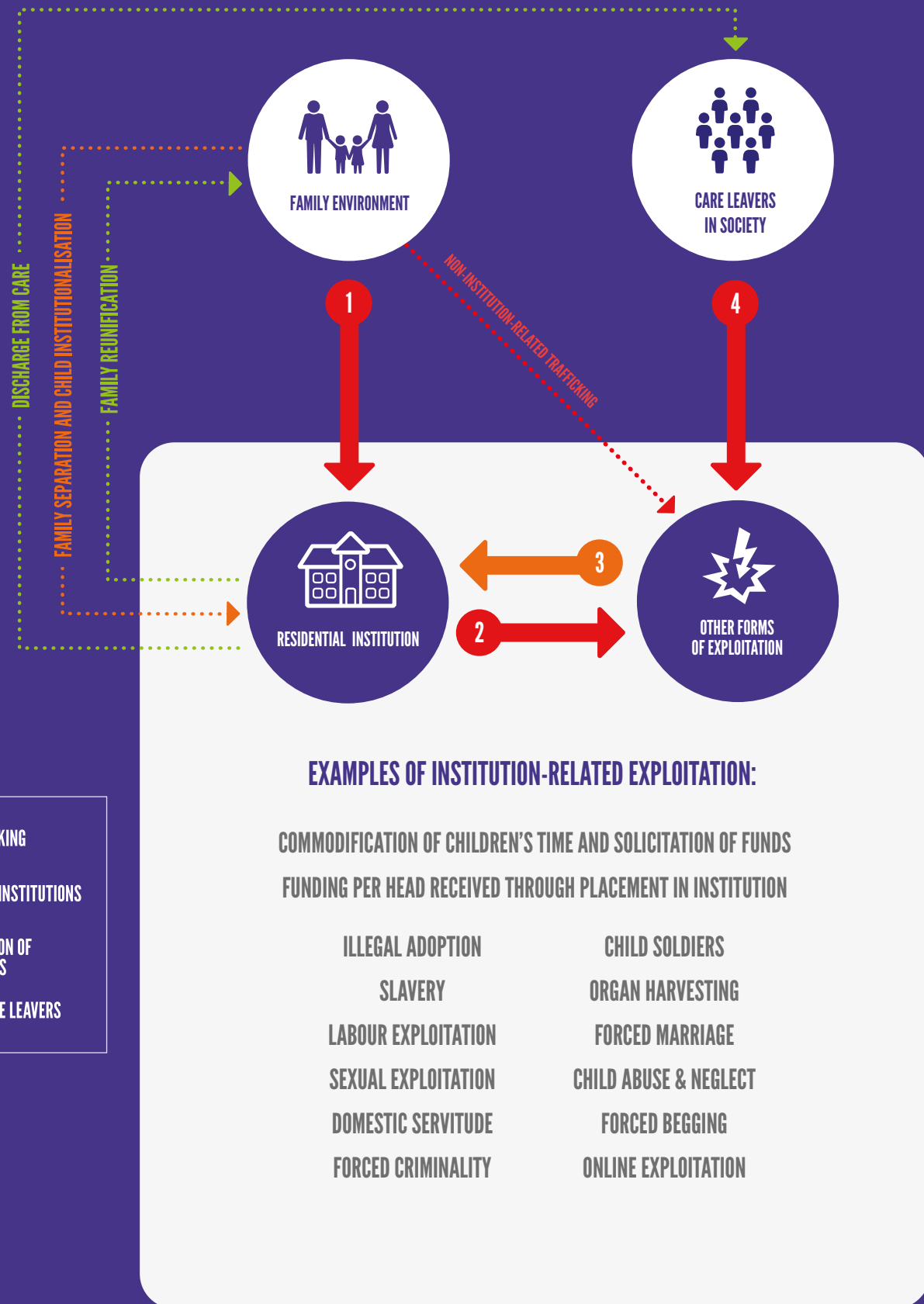
1. Children are recruited and trafficked into institutions for the purpose of financial profit and other forms of exploitation – also known as ‘orphanage trafficking’;
2. Children are trafficked out of institutions into other forms of exploitation;
3. Child trafficking victims and unaccompanied children are placed in institutions for their ‘protection’, which can put them at risk of trafficking and re-trafficking;
4. Care leavers are more at risk of exploitation and trafficking.

The conceptual model on the following page sets out the ways in which the four main cycles of institution-related trafficking interact. Note that:

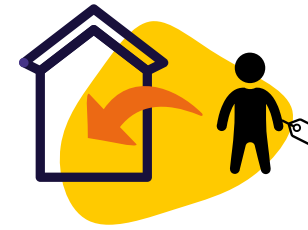
- The red arrows indicate different cycles of trafficking. The orange arrows represent the institutionalisation of children without the purpose of exploitation, whereas the green arrows denote forms of deinstitutionalisation.
- The numbers 1 to 4 correspond with the four cycles listed above. The institutionalisation of child trafficking victims and unaccompanied children (number 3) differs from the other three cycles as it indicates a child protection or criminal justice intervention rather than an act of trafficking.
- A variety of types of institution-related exploitation are connected to the trafficking cycles.
- The commodification of children’s time, and solicitation of funds, as well as the funding per head received by placing children in institutions, are specifically linked to trafficking into residential institutions.
- ‘Family environment’ encompasses all types of family care settings, including biological families, adoptive families, foster families, guardians, kinship carers, etc.
- ‘Other forms of exploitation’ refers to any type of exploitation in society that does not take place in a family environment or a residential institution.



## CONCEPTUAL MODEL: THE CYCLES OF INSTITUTION-RELATED TRAFFICKING



- 1 ORPHANAGE TRAFFICKING
- 2 TRAFFICKING OUT OF INSTITUTIONS
- 3 INSTITUTIONALISATION OF TRAFFICKING VICTIMS
- 4 TRAFFICKING OF CARE LEAVERS



### 1 – TRAFFICKING INTO INSTITUTIONS: ‘ORPHANAGE TRAFFICKING’

“Children in institutions are one of the most vulnerable groups because of the environment around them or lack of services. But they [the institutions] are seen as doing good. This is almost the perfect cover.”<sup>138</sup>

#### WHAT IS ‘ORPHANAGE TRAFFICKING’?

Child trafficking into institutions – also referred to as orphanage trafficking – is a form of child trafficking described as “the recruitment of children into residential care institutions for the purpose of profit and exploitation”.<sup>139</sup> The opportunity to exploit children for financial gain has been fuelled by the industry created to ‘support’ children in orphanages. This has contributed to a global system that creates a demand for children in institutions. Orphanage funding and orphanage voluntourism are key drivers of this particular cycle of institution-related trafficking. This is explored further in the Spotlights chapter (see page 79).

The Model Law on Institutional Childcare Trafficking for the Purpose of Financial Exploitation (Appendix 2 on page 101) proposes a detailed legal definition and framework for tackling trafficking.

#### HOW CHILDREN ARE TRAFFICKED INTO ORPHANAGES

This research found examples of orphanage trafficking all over the world. These are driven in part by direct donations of money and goods from tourists, volunteers, and businesses. Orphanage owners use tactics including deception and, in some cases, violent coercion and criminal behaviour to ensure a pipeline of children into these institutions. In documented cases across all three regions, ‘child finders’ are sent to remote areas to persuade parents into placing their children into orphanages with a false promise of opportunities for the children and their families. In other cases, families facing economic difficulty are encouraged to engage in the direct sale of children into these orphanages.

#### HOW ‘ORPHANS’ ARE CREATED AND EXPLOITED

Orphanage trafficking often involves a process called ‘paper orphaning’. In this situation, after being trafficked out of their families and communities, children are manufactured as orphans by virtue of false identity documents. This may include “the falsification of parental death certificates, the production of new birth certificates, creation of paperwork attesting to abandonment or relinquishment, or children being coached to pose as orphans in the presence of volunteers and visitors”.<sup>140</sup>

There are numerous additional safeguarding risks that are specific to children who have been trafficked into institutions, such as orphanages, that are run for profit. These are usually linked to the exploitation of children for additional financial gain. The types of exploitation documented in evidence for this report include being subjected to sexual exploitation by volunteers or visitors, forced labour, performing shows for visitors, making gifts and being taken to locations for the purposes of forced begging. There are also reports of children being left deliberately malnourished and in poor conditions for the purpose of soliciting more money from foreign donors and volunteers.<sup>141</sup>

See page 62 for the map depicting the documented global occurrence of child trafficking into institutions.

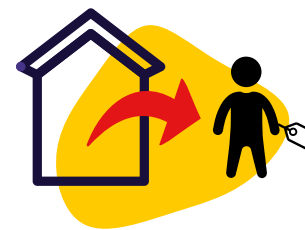
<sup>138</sup> Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

<sup>139</sup> Van Doore, K. (2016). *Op. cit.*

<sup>140</sup> Van Doore, K. (2019). *Op. cit.*

<sup>141</sup> Lumos. (2016). *Op. cit.*





## 2 – TRAFFICKING OUT OF INSTITUTIONS

“Institutions can create a pipeline of children to be used by organised crime groups.”<sup>152</sup>

### INSTITUTIONS: AN EASY TARGET FOR CHILD TRAFFICKERS

Evidence shows that children living in residential institutions are more likely to go missing than children in families,<sup>153</sup> and children in institutional care can be easy targets for traffickers seeking to exploit vulnerabilities for their own gain.<sup>154</sup> Children are often trafficked out of institutions for the purpose of sexual exploitation, forced labour and forced criminality. There is also anecdotal evidence of children being trafficked out of institutions for the purpose of organ harvesting.<sup>155,156,157</sup>

Institutions that are poorly managed enable traffickers to operate in or around the facility with impunity and there is a strong link between missing children and trafficking, meaning that children missing from institutions are at serious risk of trafficking and exploitation.<sup>158</sup> There is global evidence of children in institutions being groomed, coerced and deceived into leaving institutions for what many assume will be a place of safety.<sup>159,160,161,162,163</sup>

Furthermore, the institutions themselves can be complicit or directly involved in child trafficking.<sup>164</sup> In cases of sexual or labour exploitation, the institution can operate as a base from which children are made available to perpetrators for several hours or days before being returned to the institution.<sup>165</sup> In these instances, institutions may benefit directly or indirectly from the commercial exploitation of the children residing in them.

### EXPLOITING EMOTIONAL VULNERABILITIES

Residential institutions that are well-resourced are also targets for traffickers because, in any institution, children are unlikely to receive the same emotional support that would typically be given by families, relatives or other consistent carers with whom the child can develop a secure attachment. For traffickers, the absence of high quality, consistent care offers an opportunity to take advantage of a child’s need for emotional bonds with others. Aware of the additional vulnerability of children in institutions, human traffickers around the world are known to approach potential victims directly inside or close to the institution, often capitalising on the child’s wish to run away.<sup>166,167</sup>



## CASE STUDY – NEPAL, CAMBODIA, CHINA AND INDONESIA

In Nepal, 19 children were rescued from an orphanage in which they had been deprived of regular meals, had to share cramped accommodation and did not receive any education.<sup>142</sup> The orphanage owner told these children’s parents that the children would be attending a prestigious boarding school. Parents were asked to contribute to the school fees and told that the remainder would be funded through donations.<sup>143</sup> The orphanage owner and staff were arrested and the parents reunited with their children.<sup>144</sup>

In Cambodia, orphanage trafficking is widespread and well documented.<sup>145,146</sup> Some orphanage owners purchase vulnerable children from disadvantaged families. These children are then deprived of food and are kept in poor living conditions to attract prospective donations from volunteers and charity organisations.<sup>147</sup> The children are also at risk of being trafficked out of the orphanages for sexual exploitation and domestic servitude.<sup>148</sup>

In Indonesia, poverty and a lack of accessible welfare services mean that the most vulnerable families still depend on charitable support.<sup>149</sup> Children from low-income families or children living in remote regions can be placed in institutions as part of a child protection response which is based around orphanages.<sup>150</sup> Furthermore, social workers are often under pressure to fill all the available vacancies at orphanages. Some social workers are quoted as saying “*we do outreach every year to fill the vacancies. We even go to villages to advertise our open recruitment*”.<sup>151</sup>

142 Ujjwal S. (2019). *19 Minors Rescued from Illegal Child Care Centre*. Himalayan Times. <https://www.himalayantimes.com/kathmandu/19-minors-rescued-from-illegal-child-care-centre/> [accessed 26 January 2021].

143 *Ibid.*

144 *Ibid.*

145 See for example Al Jazeera. (2019). *Cambodia’s Orphan Business: The Dark Side of ‘Voluntourism’*. <https://www.aljazeera.com/program/rewind/2019/9/15/cambodias-orphan-business-the-dark-side-of-voluntourism> [accessed 27 January 2021].

146 See for example Reuters. (2018). *Australia vows to fight trafficking for orphanage tourism in Southeast Asia*. <https://www.reuters.com/article/us-australia-trafficking-children/australia-vows-to-fight-trafficking-for-orphanage-tourism-in-southeast-asia-idUSKBN1HN33P> [accessed 27 January 2021].

147 U.S. Department of State. (2019). *Op. cit.*, Cambodia.

148 *Ibid.*

149 McLaren, H & Qonita, N. (2019). *Indonesia’s Orphanage Trade: Islamic Philanthropy’s Good Intentions, Some Not So Good Outcomes*. MDPI. <https://www.mdpi.com/2077-1444/11/1/1/htm> [accessed 1 September 2021].

150 *Ibid.*

151 *Ibid.*

152 Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

153 European Commission. (2013). *Missing Children in the European Union: Mapping, Data Collection and Statistics*. <https://op.europa.eu/en/publication-detail/-/publication/655b34ad-341b-4348-9e3b-38741ff40f23/language-en> [accessed 1 September 2021].

154 U.S. Department of State. (2019). *Op. cit.*

155 Disability Rights International (DRI). (2015). *No Way Home: The Exploitation and Abuse of Children in Ukraine’s Orphanages*. <https://www.driadvocacy.org/wp-content/uploads/No-Way-Home-final2.pdf> [accessed 4 June 2020].

156 The Telegraph. (2016). *Ukrainian Teacher accused of trying to sell student to organ harvesters*. <https://www.telegraph.co.uk/news/2016/11/22/ukrainian-teacher-accused-trying-sell-student-organ-harvesters/> [accessed 1 September 2021].

157 DW. (2002). *世界儿童日：贩卖儿童猖獗 [World Children’s Day: rampant child-selling]*. <https://p.dw.com/p/2gbE> [accessed 1 September 2021].

158 Information collected by FRANET (Hungarian Central Statistical Office). (2013). *Szociális Statisztikai Évkönyv [Yearbook of welfare and statistics, 2011]*. Budapest: KSH.

159 Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

160 U.S. Department of State. (2021). *Op. cit.*

161 U.S. Department of State. (2020). *Op. cit.*

162 U.S. Department of State. (2019). *Op. cit.*

163 U.S. Department of State. (2018). *Op. cit.*

164 Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

165 Martin, K. (2018). *Op. cit.*

166 ECPAT UK. (2014). *Op. cit.*

167 U.S. Department of State. (2021). *Op. cit.*

## ILLEGAL ADOPTION, CHILD TRAFFICKING AND INSTITUTIONS

Children are sometimes trafficked out of institutions for the purpose of illegal adoption, which may subsequently involve other forms of exploitation.<sup>168,169</sup> In some cases, children who are adopted illegally are entangled in two cycles of institution-related trafficking: first, they are trafficked into institutions for the purpose of an illegal adoption in which prospective adoptive parents pay fees, sometimes assuming that this is a normal part of the adoption processes; this may involve the falsification of identifications and documentation. Second, the children are trafficked out of the institution through the illegal adoption process and can end up falling victim to various types of exploitation.

In China, it is estimated that over 200,000 children are sold for the purpose of international adoption.<sup>170</sup> In some cases, orphanages buy babies, create new identities for them and then advertise these children to prospective foreign adopters. An identified trafficker indicated that he was paid US\$200 per infant brought into the orphanage.<sup>171</sup> The country's International Adoption Programme has played a part in fuelling this industry: the cost of adopting through this scheme can cost up to US\$25,000.<sup>172</sup> Further reports highlight that orphanages in Nigeria are being linked to 'baby factories' – criminal enterprises where traffickers hold women against their will, rape them, and force them to carry and deliver a child.<sup>173,174</sup>

See page 63 for the map depicting the documented global occurrence of child trafficking out of institutions.



## CASE STUDY – GHANA

Ghana has emerged as a source, transit, and destination region for illegal adoption linked to human trafficking.<sup>175</sup> Trafficked children in Ghana are subjected to some of the worst forms of labour abuse, including cocoa harvesting, fish farming, and gold mining,<sup>176</sup> as well as sexual exploitation and illegal adoption schemes.<sup>177</sup>

Orphaned children in Ghana who would traditionally have been cared for by extended family members or members of the wider community are increasingly being placed in institutions where they can be exposed to exploitation, including illegal intercountry adoption processes.<sup>178</sup>

As it stands, the Department of Social Welfare is unable to prevent unlicensed children's institutions from operating<sup>179</sup> and there are few laws and policies to support oversight and monitoring, leaving children vulnerable to trafficking and abuse.<sup>180,181</sup> This lack of official oversight is being exploited by the illegal adoption industry – leading to the sale of children by unlicensed institutional care facilities to unregulated adoption providers.<sup>182</sup>



## CASE STUDY – RUSSIA

The Russian government has made some efforts to combat child trafficking, including convicting traffickers and establishing processes for the safe return of Russian children trafficked abroad. However, significant gaps remain in terms of meeting minimum standards more broadly.<sup>183</sup>

Institutionalised children are particularly vulnerable as orphanages in Russia are overcrowded and poorly resourced. The lack of monitoring and oversight of institutions in Russia means that they have become centre-points for child trafficking for the purpose of labour exploitation, sexual exploitation, and acts of forced criminality.<sup>184</sup>

There have been reports of cases where institutionalised children are trafficked out of the institutions by orphanage staff for sexual exploitation and then returned to the orphanage, thus reinforcing a cycle of abuse.<sup>185</sup> In other cases, children in orphanages were themselves involved in trafficking their peers, selling girls living at the orphanage for sexual exploitation.<sup>186</sup> Additionally, girls in orphanages were groomed by pimps and trafficked out of orphanages for the purpose of sexual exploitation.<sup>187</sup> Boys are more likely to be trafficked for labour exploitation and various forms of forced criminality. In conflict situations, institutionalised children in Russia have also been trafficked out of orphanages to be used as child soldiers and violent non-state actors in conflict situations in the Middle East.<sup>188</sup>

168 Pierre-Val, E. (2014). *Op. cit.*

169 Montarsolo, L. (2019). *Op. cit.*

170 Zheng, T. (2018). Human Trafficking in China. *Journal of Historical Archeology and Anthropological Sciences*. <http://medcraveonline.com/JHAAS/JHAAS-03-00080.pdf> [accessed 1 September 2021].

171 *Ibid.*

172 Constante, A. (2020). *In connecting Chinese adoptees to birth families, couple makes discovery about China's one-child policy*. <https://www.nbcnews.com/news/asian-america/connecting-chinese-adoptees-birth-families-couple-makes-discovery-about-china-n1172301> [accessed 1 September 2021].

173 U.S. Department of State. (2021). *Op. cit.*

174 *Ibid.*

175 U.S. Department of State. (2020). *Op. cit.*, Ghana.

176 United States Department of Labor - Bureau of International Labor Affairs. (2019). *Child Labor and Forced Labor Reports - Ghana*.

<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ghana> [accessed 1 September 2021].

177 Sarpong, R.O. & Mensah-Ankrah C. (2019). *Adoption Practices Fueling Child Trafficking in Ghana*. Eban Centre for Human Trafficking Studies.

[https://www.researchgate.net/publication/323621124\\_Adoption\\_Practices\\_Fueling\\_Child\\_Trafficking\\_in\\_Ghana](https://www.researchgate.net/publication/323621124_Adoption_Practices_Fueling_Child_Trafficking_in_Ghana) [accessed 1 September 2021].

178 *Ibid.*

179 Frimpong-Manso K. et al. (2019). Residential childcare in Ghana: Analysing current trends and drivers. *Scottish Journal of Residential Child Care*. ISSN 1478-1840.

[https://bettercarenetwork.org/sites/default/files/2019\\_Vol\\_18\\_No\\_2\\_Frimpong-Manso\\_K\\_Residential\\_childcare\\_in\\_Ghana.pdf](https://bettercarenetwork.org/sites/default/files/2019_Vol_18_No_2_Frimpong-Manso_K_Residential_childcare_in_Ghana.pdf) [accessed 1 September 2021].

180 *Ibid.*

181 *Ibid.*

182 *Ibid.*

183 U.S. Department of State. (2020). *Op. cit.*, Russia.

184 *Ibid.*

185 Martin, K. (2018). *Op. cit.*

186 ECPAT. (2016). *Offenders on the Move: Global Study on Sexual Exploitation of Children in Travel and Tourism*.

<https://ecpat.org/resource/the-global-study-on-sexual-exploitation-of-children-in-travel-and-tourism/> [accessed 18 November 2021].

187 *Ibid.*

188 U.S. Department of State. (2018). *Op. cit.*



### 3 – INSTITUTIONALISATION OF CHILD TRAFFICKING VICTIMS

**“Orphans are being profiled. Where the system allows it, traffickers know where to go. Orphanages, care homes, are like ‘holding pens’ for victims of trafficking. It’s part of the methodology.”<sup>189</sup>**

Children who have been trafficked are regularly placed in institutions, either as a child protection mechanism intended to provide protection and support or as a law enforcement response because the child isn’t being treated as a victim. This can occur when children who have been trafficked and forced into sexual exploitation or gangs are not recognised as victims by law enforcement and criminal justice systems. Consequently, these children are sometimes fined or placed in juvenile detention centres. Sometimes, children are placed in institutions simply because there appears to be no viable alternative.

Whatever the reason for being put in an institution, outcomes for children are poor and they are at risk of being re-trafficked and re-traumatised. In some cases, child victims of trafficking are returned to the same institutions from which they were trafficked previously and re-exposed to the same factors that facilitated trafficking in the first place. For example, in Norway, authorities placed identified child victims of trafficking in state-run institutions, such as orphanages, for up to six months.<sup>190</sup> The institutionalisation of victims of trafficking thus increases their vulnerability to future exploitation, perpetuating the intricate cycle of institutionalisation and trafficking. Institutionalised child victims of trafficking sometimes run away from these facilities and risk life on the streets, where they are also vulnerable to exploitation.

See also the Spotlight on unaccompanied migrant and refugee children on page 87 for more information on the institutionalisation of unaccompanied children, including victims of trafficking.

### CASE STUDY – AFGHANISTAN

Victims of child trafficking in Afghanistan are often placed in orphanages or, in other cases, prisons.<sup>191</sup> This creates risks for the children of being re-trafficked, as orphanages are a reported avenue for the trafficking of children in the region, especially for the purpose of sexual exploitation.<sup>192</sup> Afghanistan lacks the mechanisms needed for protecting victims of trafficking, including mental health care services, re-integration services, and social welfare services.

There are also discrepancies in how the law is applied in relation to trafficking: a shortage of resources and lack of political will to hold perpetrators to account has weakened the implementation of anti-trafficking laws and few, if any, arrests of prominent perpetrators have been made.<sup>193</sup>

Nevertheless, the government of Afghanistan has taken steps to combat child trafficking, including funding extra child protection units. This led to the prevention of 357 children from being recruited as child soldiers,<sup>194</sup> and the arrests of individuals involved in the kidnapping of children for the purpose of *Bacha Bazi*.<sup>195</sup> However, Government officials – including at the Ministry of Interior – are reported to have categorically denied the existence of *Bacha Bazi* among police and would not investigate credible reports to the contrary.<sup>196</sup>

<sup>189</sup> Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

<sup>190</sup> U.S. Department of State. (2021). *Op. cit.*

<sup>191</sup> *Ibid.*

<sup>192</sup> *Ibid.*

<sup>193</sup> *Ibid.*

<sup>194</sup> *Ibid.*

<sup>195</sup> *Bacha Bazi* is an exploitive practice whereby boys are conscripted by wealthy and powerful men to work as dancers and sexual companions. See Mondlock, C. (2013). *Bacha Bazi: An Afghan Tragedy*. Foreign Policy. <https://foreignpolicy.com/2013/10/28/bacha-bazi-an-afghan-tragedy/> [accessed 1 September 2021].

<sup>196</sup> U.S. Department of State. (2020). *Op. cit.*, Afghanistan.



### CASE STUDY – HOGAR SEGURO, GUATEMALA

In 2017, 41 girls died in a fire in a state-run orphanage (Hogar Seguro) in Guatemala. More than 100 children had attempted to flee the facility after experiencing various forms of exploitation but were brought back by law enforcement personnel and placed in confinement. Fifty-six girls were placed in one cramped room to await instructions from the local magistrate. In desperation, the girls started a fire to gain the attention of the officers outside. Instead, the officers did not respond to the situation, resulting in a tragic loss of life.<sup>197</sup> Several of the children had been sent to the institution as a protection measure, including girls who were rescued from criminal gangs that are alleged to have sexually exploited them.<sup>198</sup>

From 2012 to 2015, six children had reportedly died in the same facility,<sup>199</sup> which had a concerning history involving the sexual exploitation, labour exploitation, abuse and neglect of many children who had stayed there.<sup>200</sup> In some cases, girls were trafficked out of institutions and prostituted by the orphanage staff to others. In some cases, orphanage staff themselves sexually abused the girls.<sup>201</sup>

In the aftermath of the fire, the surviving children were placed in other institutions with similar histories. Some children told child protection practitioners that the orphanage staff often beat them.<sup>202</sup> As a result, the cycle has repeated as there have been increased cases of children attempting to escape from these institutions and becoming vulnerable to other forms of trafficking.<sup>203</sup>

In some of the institutions where survivors were placed, orphanage volunteering is common and encouraged. At Hope of Life, an orphanage where 40 survivors of the Hogar Seguro tragedy reside, volunteers can buy packages to stay at the orphanage: US\$750 for “The Significance Package”, US\$850 “The Transformation Package”, and US\$1000 for “The Dream Makers Package”. In some seasons, the orphanage receives 400 volunteers a week.<sup>204</sup> At other orphanages, such as Dorie’s Promise, volunteers are not required to have any form of qualification or experience; the only requirement is that they pay the standard fee of US\$1100.<sup>205</sup> Reports highlight an intersection between voluntourism and child sex tourism in Guatemala, as volunteers have unfettered access to children and criminal background checks are only occasionally done.<sup>206</sup> In one study, out of 20 companies arranging voluntourism trips to Guatemala orphanages, only three conducted background checks.<sup>207</sup> Some orphanages even allow volunteers to sleep in the same room as the children.<sup>208</sup>

<sup>197</sup> Ahmed, A. (2019). *A Locked Door, a Fire and 41 Girls Killed as Police Stood By*. New York Times. <https://www.nytimes.com/2019/02/14/world/americas/guatemala-shelter-fire-trial.html> [accessed 1 September 2021].

<sup>198</sup> Rodriguez, P. et al. (2018). *Still in Harm’s Way: International Voluntourism, Segregation, and Abuse of Children in Guatemala*. Disability Rights International. <https://www.driadvocacy.org/wp-content/uploads/Still-in-Harms-Way-2018.pdf> [accessed 1 September 2021].

<sup>199</sup> *Ibid.*

<sup>200</sup> *Ibid.*

<sup>201</sup> *Ibid.*

<sup>202</sup> *Ibid.*, p8.

<sup>203</sup> *Ibid.*

<sup>204</sup> *Ibid.*

<sup>205</sup> *Ibid.*

<sup>206</sup> *Ibid.*

<sup>207</sup> Better Care Network. (2014). *Collected viewpoints on international volunteering in residential centers. Country focus: Guatemala*.

<sup>208</sup> U.S. Department of State. (2020). *Op. cit.*, Afghanistan.



## 4 – TRAFFICKING OF CARE LEAVERS

“Europol said there were 10,000 missing children a few years ago. Where are all those children now? When they come to adulthood, what will happen? They are like pawns on a chessboard.”<sup>209</sup>

### CHILDREN WHO LEAVE CARE

This section considers two types of care leavers: young people who ‘age out’ of the system, and those who run away from orphanages. Although both groups of care leavers are vulnerable to various forms of exploitation linked to trafficking, there are minor situational differences. In the case of orphanage runaways, victims of trafficking can include both minors and dependent adults who are at risk of being trafficked after running away from the institution. Young adults who are too old to remain in the system include adults (or those considered adults by government standards) who are vulnerable to trafficking as they lack the support needed to re-integrate into their communities and the skillsets to gain employment.

### THE IMPORTANCE OF SUPPORT FOR CARE LEAVERS

Care leavers are particularly vulnerable to trafficking even if they are adequately supported to reintegrate into society once they have left an institution. Meeting conditions set by social welfare departments can be challenging: in some cases, care leavers are required to have a job, attend higher education or possess a clean police record to access social welfare support. A lack of necessities like food and shelter can expose care leavers to circumstances that put them at risk of trafficking and criminality. In these cases, young men and women may be forced into lives of sexual exploitation, begging or robbery in order to survive.

Care leavers can sometimes assume the role of perpetrators of institution-related trafficking. For example, in some cases, children who are trafficked out of institutions are recruited and coerced by friends who may have lived in that same institution.

## CASE STUDY – ALBANIA

Children leaving Albanian institutions are at increased risk of trafficking as the national age for leaving the care system is only 15, when they are less likely to have the life skills needed to live independently as fully integrated members of society.<sup>210</sup>

However, it is worth noting that Albania has begun a deinstitutionalisation process, meaning that the government is hoping to transition away from institutional care, and towards quality family and community-based care in the coming years.<sup>211</sup> This process will help to protect thousands of children from trafficking and exploitation. Nevertheless, it is crucial that this process is undertaken in a way that respects the right of all children, to remain with their families unless there is a real (as opposed to a perceived) risk of trafficking.

**CARE LEAVERS ARE ESPECIALLY VULNERABLE TO TRAFFICKING, PARTICULARLY WHEN THEY ARE NOT ADEQUATELY SUPPORTED TO REINTEGRATE INTO SOCIETY ONCE THEY HAVE LEFT AN INSTITUTION.**

<sup>209</sup> Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

<sup>210</sup> Lumos. (2019). [Call for evidence submission from the Council of Europe - GRETA in France]. Unpublished data: on file with Lumos.

<sup>211</sup> Lumos. (2019). [Call for evidence submission from RENATE Europe in the Netherlands]. Unpublished data: on file with Lumos.

## CHAPTER 4

4  
**SCALE AND PREVALENCE**

Reliable data for the number of children living in institutions globally, and the prevalence of human trafficking, is limited and sometimes contested. Recording processes, resources and political will vary from country to country, making it challenging to explore trafficking flows and the links with institution-related trafficking.

The evidence collected in this Global Thematic Review seeks to address the scale and prevalence of institution-related trafficking. Evidence was amassed from diverse contexts around the world through the literature review, call for evidence and key informant interviews. Although these pieces of evidence do not provide a statistically representative picture of the scale of institution-related trafficking, they do offer rich insights into the apparent prevalence of different trafficking cycles in all regions of the world.

**CHILDREN IN INSTITUTIONS: EVIDENCE BASE AND DATA GAPS**

A child living in an institution is more at risk of trafficking than their peers who live in family- and community-based care.<sup>212</sup> Understanding the scale and nature of institutionalisation is essential. In the most systematic attempt to date to estimate the number of children living in institutions across the world, research commissioned by Lumos and published in *The Lancet Child and Adolescent Health* in March 2020 estimated a median of 5.4 million children living in institutions globally.<sup>213</sup>

However, gaps in data and reporting mean that estimating the number of children growing up in institutions, separated from their families and communities, poses significant challenges. The researchers found substantial numbers of missing data points from countries with no figures or no recently available figures.<sup>214</sup> Some countries depend on inadequate counting systems, which leads to significant variability and inaccuracy.<sup>215</sup>

The data that does exist remains contested as no universal definition of an 'institution' has been adopted, let alone applied at a country level. Insufficient capacity, knowledge or political will to capture and share the number of citizens living in institutions also contribute to an underreporting of statistics in this area. Institutions are often unregistered or unrecorded, particularly in countries where they are predominantly run and funded by private organisations and individuals rather than by state authorities, as well as where governance is weak. For example, a recent report highlighted that in Honduras only 105 of the total 754 orphanages, which house 23,723 children, were either licensed or becoming officially licensed, and 398 were considered high-risk for child safety.<sup>216</sup> Similarly, in Ghana, a government audit found that the number of residential institutions had increased by 169% between 2005 and 2012 and that 96% of these were unlicensed and unregulated.<sup>217</sup>

Some of the most vulnerable children in the world are therefore excluded from official statistics and monitoring. When children are not counted, it is impossible to develop or fund evidence-based plans or policies to address the issues that lead them to be separated from their families.

**GAPS IN DATA AND REPORTING MEAN THAT ESTIMATING THE NUMBER OF CHILDREN GROWING UP IN INSTITUTIONS, SEPARATED FROM THEIR FAMILIES AND COMMUNITIES, POSES SIGNIFICANT CHALLENGES...**

<sup>212</sup> European Commission. (2013). *Missing Children in the European Union: Mapping, Data Collection and Statistics*. <https://resourcecentre.savethechildren.net/document/missing-children-european-union-mapping-data-collection-and-statistics/> [accessed 17 November 2020].

<sup>213</sup> Desmond, C., et al. (2020). *Op. cit.*

<sup>214</sup> *Ibid.*

<sup>215</sup> See for example Disability Rights International (DRI). (2015). *Op. cit.*

<sup>216</sup> U.S. Department of State. (2021). *Op. cit.*

<sup>217</sup> Republic of Ghana. (2013). *Ghana Audit Service, Performance Audit Report of the Auditor General on the Regulation of Residential Homes for Children (Orphanages) by the Department of Social Welfare*.

## CHILD TRAFFICKING: EVIDENCE BASE AND DATA GAPS

Human trafficking is a form of modern slavery. Globally, there are an estimated 9.965 million children in modern slavery, covering all forms of forced labour (including sexual exploitation) and forced marriage.<sup>218</sup> According to Global Estimates on Modern Slavery<sup>219</sup> by the ILO, there were 4.4 child victims of modern slavery for every 1,000 children in the world.<sup>220</sup> One in four victims of modern slavery were children, with women and girls accounting for 71%.<sup>221</sup>

The most documented types of trafficking that children are subjected to are forced marriage, forced labour and sexual exploitation – each of which are found in evidence within this report to be types of exploitation that occur within residential care for children across the world. The table below shows the breakdown for different types of exploitation in both absolute and relative terms:<sup>222</sup>

Number and prevalence of children in modern slavery	Forced labour exploitation	Forced sexual exploitation of adults and commercial sexual exploitation of children	State-imposed forced labour	Forced marriage	Modern slavery
<b>Number (thousands)</b>	<b>2,980</b>	<b>1,024</b>	<b>282</b>	<b>5,679</b>	<b>9,965</b>
<b>Prevalence (per thousand)</b>	<b>1.3</b>	<b>0.4</b>	<b>0.1</b>	<b>2.5</b>	<b>4.4</b>

According to 2018 data from UNICEF and the Inter-Agency Coordination Group against Trafficking (ICAT), across regions such as Sub-Saharan Africa, Central America and the Caribbean, children account for an even higher proportion of identified trafficking victims, at 64% and 62% respectively.<sup>223</sup> The two charts on the next page show the United Nations Office on Drugs and Crime (UNODC) data on the prevalence of forced labour and sexual exploitation respectively, broken down both by sex and subregion.<sup>224</sup>

Despite these already stark statistics, it is thought that the number of trafficked children is higher than current data suggests.<sup>225</sup> The reality is that identifying victims of child trafficking is particularly challenging for a number of reasons, including the following:

- Inadequate mechanisms for the reporting and documenting of instances of trafficking in many countries, and the absence of national action plans to create and implement these.<sup>226</sup>
- Acts that constitute trafficking are not being categorised as such. While there are agreed-upon global definitions of trafficking, children who are trafficked are often not ascribed victim status and are not included in the data.<sup>227</sup> For example, children who are trafficked into forced criminality may not be seen as victims by law enforcement and justice systems.
- Ultimately, the illicit nature of human trafficking itself makes data collection and monitoring particularly challenging.

218 International Labour Organization (ILO). (2017). *Op. cit.*, p18.

219 See Appendix 1 (page 99) for a definition of modern slavery.

220 International Labour Organization (ILO). (2017). *Op. cit.*, p5.

221 *Ibid.*

222 For definitions of the sub-categories of forced labour used in the table, please refer to International Labour Organization (ILO). (2017). *Op. cit.*, p18.

223 UNICEF. (2018). *Children account for nearly one-third of identified trafficking victims globally*. <https://www.unicef.org/press-releases/children-account-nearly-one-third-identified-trafficking-victims-globally> [accessed 1 September 2021].

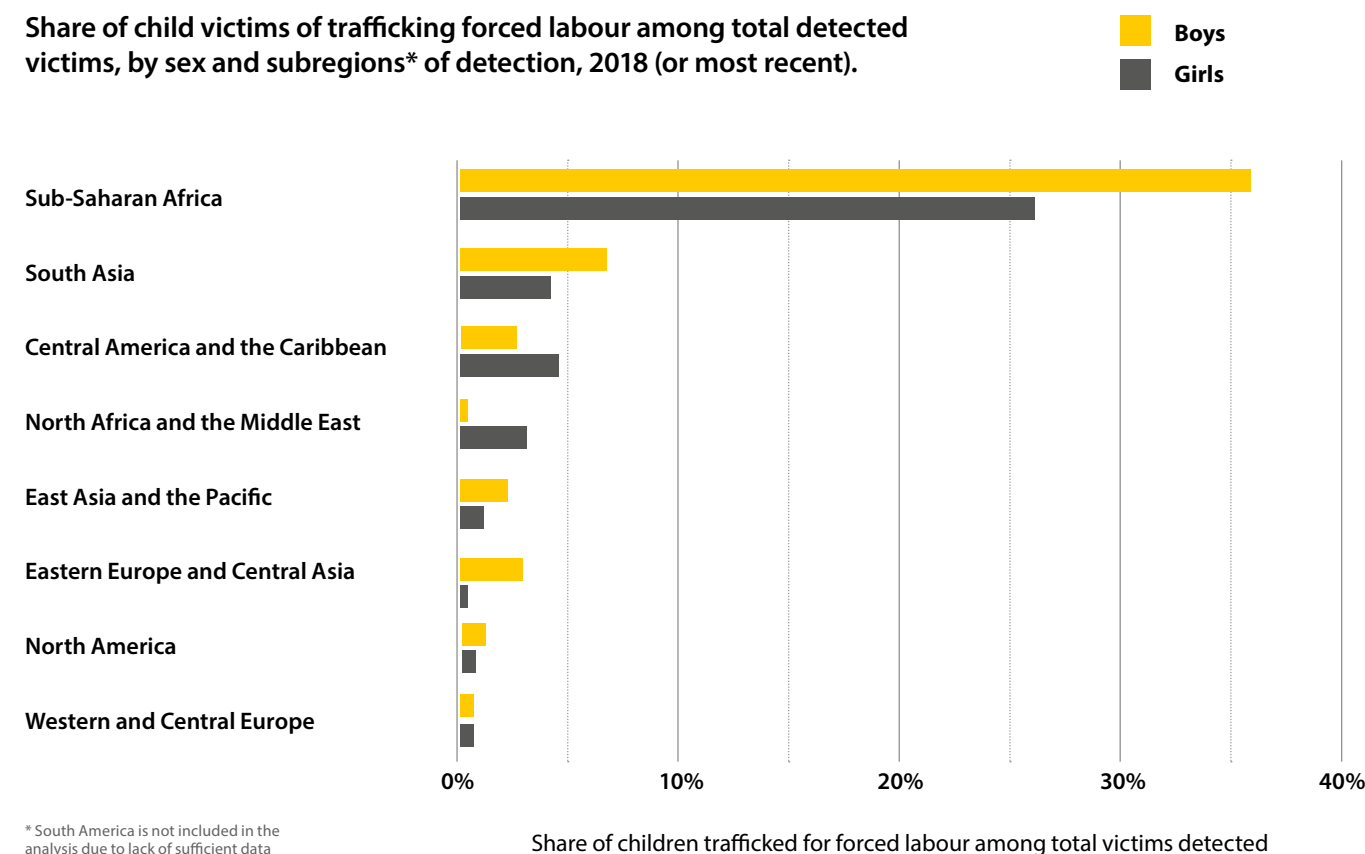
224 United Nations Office on Drugs and Crime (UNODC). (2020). *Global Report on Trafficking in Persons*. [https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP\\_2020\\_15jan\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/tip/2021/GLOTIP_2020_15jan_web.pdf) [accessed 1 September 2021].

225 UNICEF. (2018). *Op. cit.*

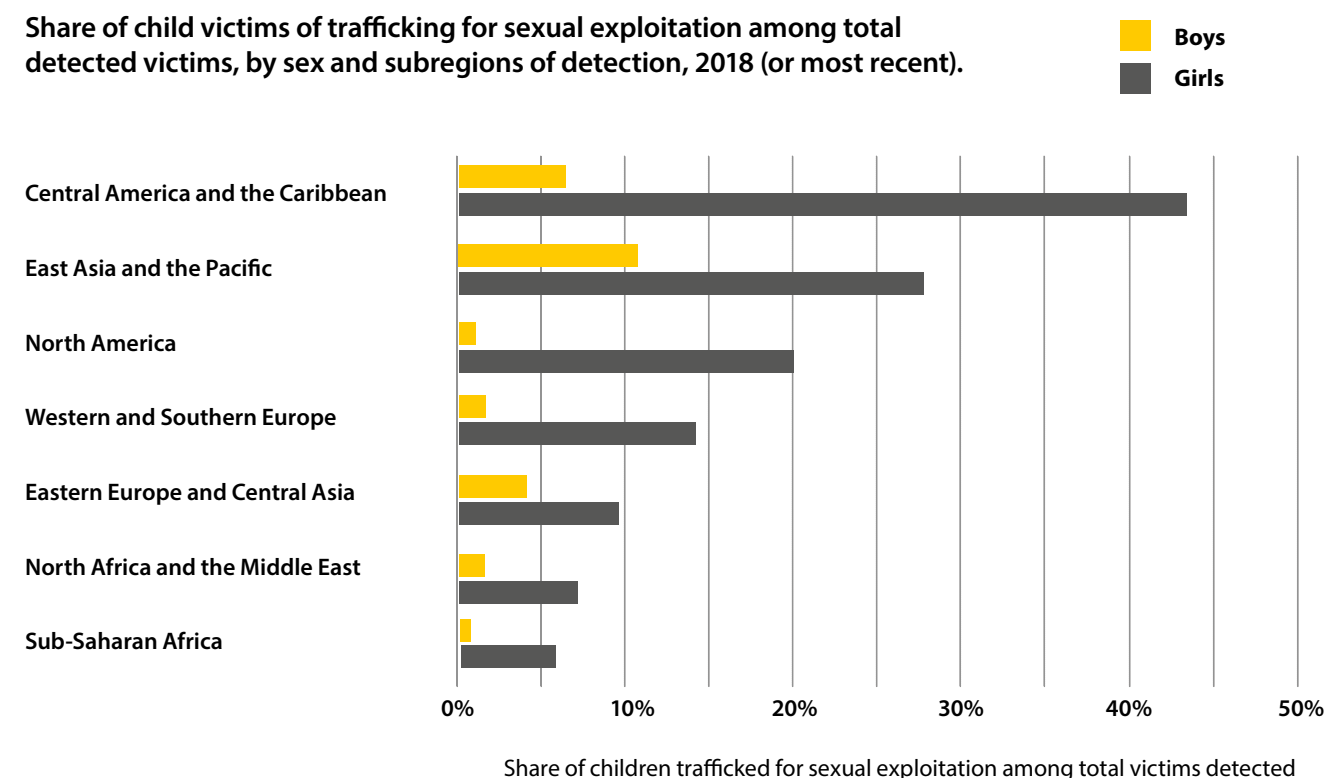
226 U.S. Department of State. (2019). *Op. cit.*

227 *Ibid.*, Hungary.

Share of child victims of trafficking forced labour among total detected victims, by sex and subregions\* of detection, 2018 (or most recent).



Share of child victims of trafficking for sexual exploitation among total detected victims, by sex and subregions of detection, 2018 (or most recent).



Source: UNODC elaboration of national data, UNICEF, (2018). *Op. cit.*

# BETTER DATA COLLECTION SYSTEMS ARE ESSENTIAL TO REVEAL THE TRUE SCALE AND PREVALENCE OF INSTITUTION-RELATED TRAFFICKING.

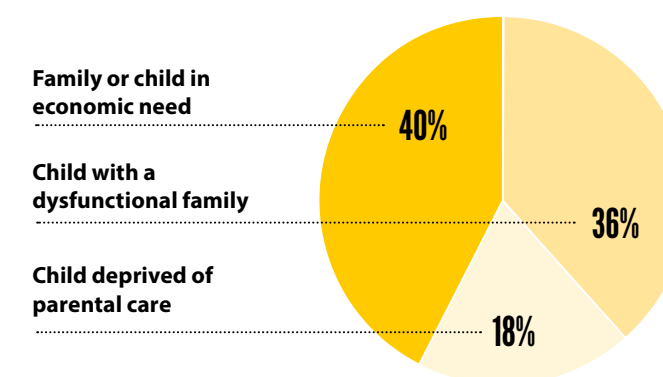
## INSTITUTION-RELATED TRAFFICKING: EVIDENCE BASE AND DATA GAPS

The challenges surrounding data on the prevalence and scale of child trafficking are exacerbated even more when looking specifically at institution-related trafficking. This is primarily because:

- residential institutions may be defined differently from country to country, and child protection systems vary considerably
- institution-related trafficking is not recognised as a specific type of human trafficking. By extension, it is rarely measured and monitored on an official level by individual countries, let alone internationally.

Nevertheless, some global data exists to help identify the scale and prevalence of institution-related trafficking. A 2018 UNODC analysis looked at 99 child trafficking court cases out of a total of 489 cases.<sup>228</sup>

The top three pre-existing factors that traffickers have taken advantage of, as reported in the court cases, are:



These factors show overlaps with the vulnerabilities facing children in institutional care or those at risk of institutionalisation. This points to the anecdotal evidence on the overrepresentation of institutionalised children in human trafficking statistics.

## GLOBAL OCCURRENCE OF TRAFFICKING INTO AND OUT OF INSTITUTIONS

The cycles of trafficking into institutions (ie, orphanage trafficking) and trafficking out of institutions were analysed in more detail.<sup>229</sup>

The two maps on the following page provide an overview of the global evidence identified through this research. To differentiate between various types of evidence, the following categories are colour-coded on the map based on how authoritative the source is likely considered to be:<sup>230</sup>

1. **US Trafficking in Persons (TIP) report or United Nations Office on Drugs and Crime (UNODC) report (2017-2021)**
2. **Academic literature source (2000-2020)**
3. **Grey literature source (including media articles) (2000-2020)**
4. **Call for evidence submission or key informant interview (2019-2020)**

In addition to evidence of the two cycles of trafficking, the maps also feature evidence in the form of cases of exploitation and reports of increased vulnerability to trafficking within and outside institutions respectively. The maps only depict the most credible and authoritative type of evidence that was documented for each country. For many countries, multiple pieces of evidence of institution-related trafficking were identified.<sup>231</sup> **The maps highlight important regional trends in the available evidence and documentation on the occurrence of institution-related trafficking around the world.** Moreover, they highlight gaps in the current evidence base that may indicate a combination of the following methodological factors: (1) limitations in the research methodology of this report and inability to capture the full extent of the global evidence base;<sup>232</sup> (2) shortcomings in national monitoring and child protection systems resulting in a lack of data; and/or (3) the apparent non-existence of trafficking into and out of children's institutions in certain country contexts.

<sup>228</sup> United Nations Office on Drugs and Crime (UNODC). (2020). *Op. cit.*

<sup>229</sup> These two cycles were selected because they are often referred to specifically as trafficking cases in the available literature and in the call for evidence submissions. While the institutionalisation of trafficking victims is prevalent around the world, the exact figures are often not recorded. Moreover, reports about care leavers who fall victim to trafficking rarely explicitly mention the institutional history of the victim. These two cycles of trafficking are therefore less appropriate for a map of the documented global occurrence.

<sup>230</sup> See the separate Methodology Annex for a further description of the inclusion and exclusion criteria used for each of these four evidence categories in the compilation of the two maps.

<sup>231</sup> For example, if the research documented evidence of trafficking into institutions in a single country through both a reference in a UNODC report and a call for evidence submission, only the former would be shown.

<sup>232</sup> See also the section on Methodology (page 29).



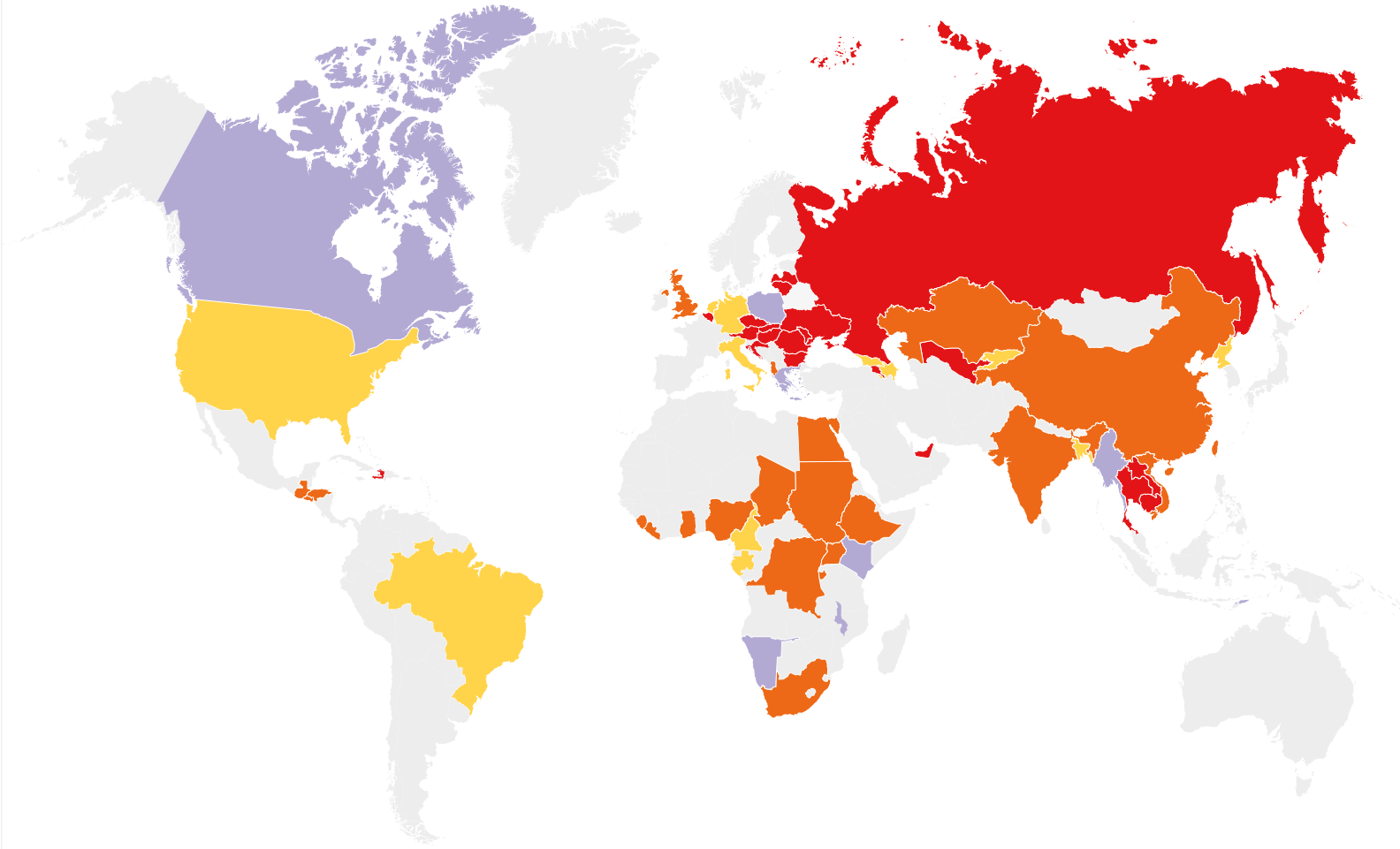
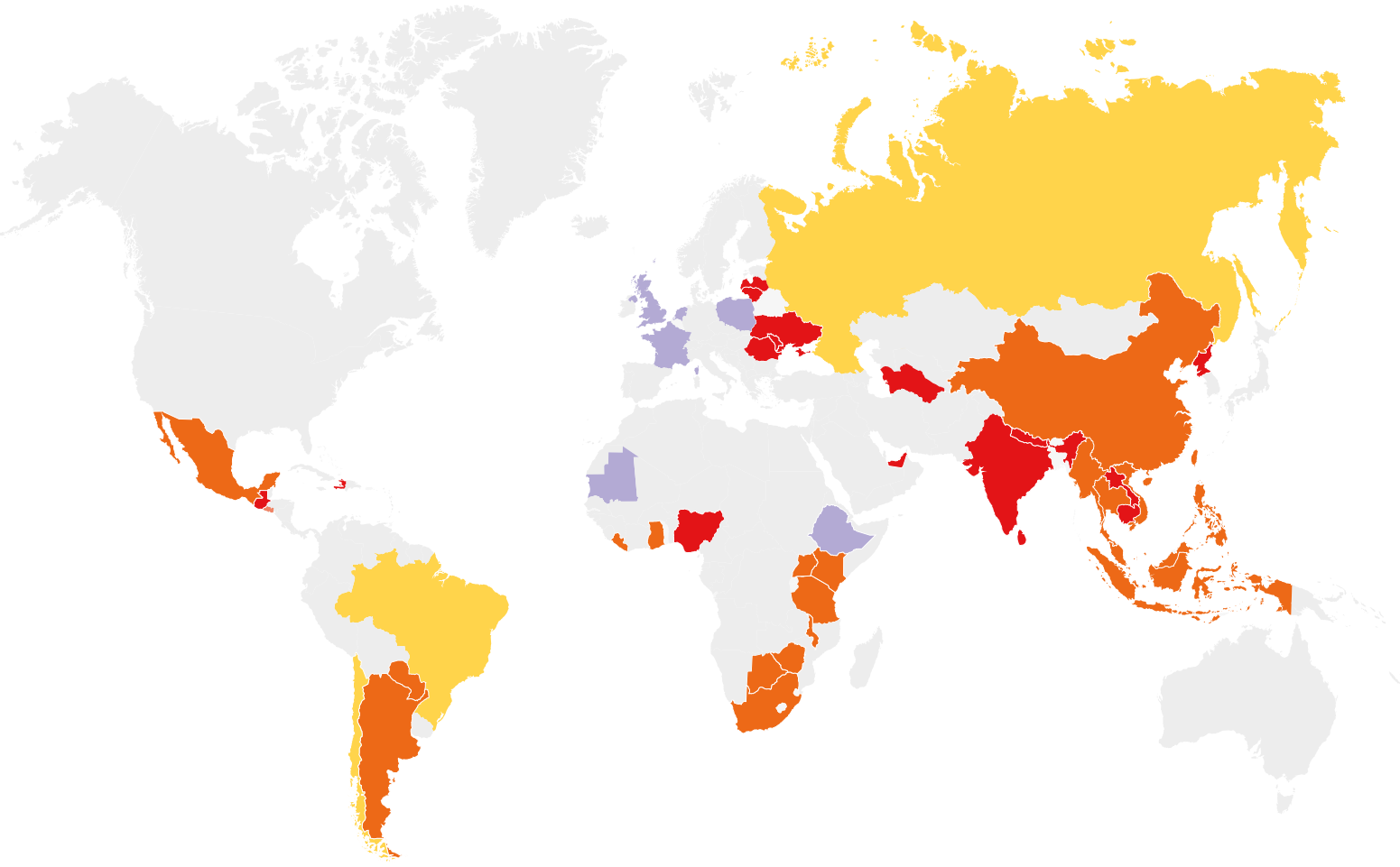
### MAP 1: DOCUMENTED GLOBAL OCCURRENCE OF TRAFFICKING INTO INSTITUTIONS<sup>233</sup>

Country-level evidence from after 2000, including cases of exploitation of children residing in institutions and reports of increased vulnerability to human trafficking (broken down by most relevant evidence category)



### MAP 2: DOCUMENTED GLOBAL OCCURRENCE OF TRAFFICKING OUT OF INSTITUTIONS<sup>234</sup>

Country-level evidence from after 2000, including reports of increased vulnerability of children to trafficking and exploitation outside institution (broken down by most relevant evidence category)



- US Trafficking in Persons (TIP) report or United Nations Office on Drugs and Crime (UNODC) report (2017-2021)
- Academic literature source (2000-2020)
- Grey literature source (including media articles) (2000-2020)
- Call for evidence submission or key informant interview (2019-2020)
- No relevant evidence found

- US Trafficking in Persons (TIP) report or United Nations Office on Drugs and Crime (UNODC) report (2017-2021)
- Academic literature source (2000-2020)
- Grey literature source (including media articles) (2000-2020)
- Call for evidence submission or key informant interview (2019-2020)
- No relevant evidence found

<sup>233</sup> An overview of the references for each country where relevant documented occurrences were identified as part of this research can be found in the separate methodology appendix.

<sup>234</sup> An overview of the references for each country where relevant documented occurrences were identified as part of this research can be found in the separate methodology appendix.



## CASE LAW ANALYSIS – THE NETHERLANDS AND INDIA

Building on the UNODC analysis of court cases, this report looks at case law in two countries – the Netherlands and India – in more detail. These case studies illustrate the apparent prevalence of institution-related trafficking and the overrepresentation of institutionalised children as victims of trafficking.

### NETHERLANDS

#### OVERVIEW

In 2020, Defence for Children – ECPAT researched Dutch case law on sexual exploitation.<sup>235</sup> It analysed all the publicly available outcomes of child sexual exploitation cases brought to court during the period 2015-2019.<sup>236</sup> A secondary analysis of all 143 outcomes was carried out by Lumos to systematically examine the role institutional care plays in sexual exploitation cases. Although the data does not represent the true proportion of institution-related trafficking as part of overall child trafficking cases, as not all cases are brought to court, they do provide a lower-bound, proxy indicator of the scale of institution-related trafficking.

#### CONTEXT

Social care for children in the Netherlands is largely deinstitutionalised, with only 10% of children in the care system living apart from their own families (including foster care).<sup>237</sup> Residential services tend to be provided in larger groups of eight or nine children; individualised care services in smaller residential settings are less common.<sup>238</sup> 2,094 children lived in 'closed institutions' with more restrictive measures<sup>239</sup> in 2019.<sup>240</sup>

In recent years, there has been an increased focus on the widespread phenomenon of teenage girls going missing from institutions and being sexually exploited by so-called 'loverboys' or 'teenage pimps'. A similar pattern of institution-related trafficking has been identified in other western European countries and researched in Belgium.<sup>241,242</sup>

#### KEY FINDINGS

The main results are depicted in the tables on the following page.

*In more than a quarter of cases of sexual exploitation, the victim (and sometimes the offender) had a history of institutionalisation.*

This demonstrates the vulnerability of children in residential institutions, particularly those in closed settings. The percentages depicted in the tables only include victims whose history of institutionalisation was explicitly mentioned in the court judgement and are therefore a conservative estimate. Given the fact that only a tiny proportion of children in the Netherlands live in institutions and that many, if not most, cases of trafficking are not even identified, let alone prosecuted or convicted, this is concerning. The case law data also sheds light on the incidence of the various cycles of institution-related trafficking in the Netherlands.

235 Huls, E. (2020). *Bestrafing van seksuele uitbuiting van minderjarige gewogen: Een jurisprudentieonderzoek naar de straffoetingsbeslissingen van rechters* [Weighing up punishment for the sexual exploitation of minors: A case law study of sentencing decisions by judges]. Defence for Children – ECPAT.

236 The primary analysis conducted by Defence for Children – ECPAT was based on a search of all Dutch case law available at Rechtspraak. (n.d.). <https://www.rechtspraak.nl/> [accessed 1 September 2021] at the time of data collection in 2020.

237 *Ibid.*, p27.

238 Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

239 In the Netherlands, young people are placed in closed youth institutions, containing restrictive measures, when lighter forms of support are ostensibly not suitable: "Without treatment they would pose a risk to themselves or their environment. The aim of the closed institution is to treat young people with serious behavioural problems and to change their behaviour in such a way that they can participate in society again" Nederlands Jeugdinstituut [Dutch Youth Institute]. (n.d.). *Cijfers over Jeugd en Opvoeding: JeugdzorgPlus* [Figures on Youth and Education: YouthCarePlus]. <https://www.nji.nl/Databank/Cijfers-over-Jeugd-en-Opvoeding/Cijfers-per-voorziening/Instelling-voor-JeugdzorgPlus> [accessed 28 January 2021].

240 Nederlands Jeugdinstituut. (n.d.). *Op. cit.*

241 Lumos. (2019). [Call for evidence submission from Child Focus in Belgium]. Unpublished data: on file with Lumos.

242 Child Focus. (2016). *Slachtoffers van tienerpooiers in Vlaanderen* [Victims of teenage pimps in Flanders]. <https://www.vlaanderen.be/publicaties/slachtoffers-van-tienerpooiers-in-vlaanderen> [accessed 5 June 2020].

**"THE VICTIM ASSUMED THAT IF SHE RETURNED HOME, SHE WOULD BE PLACED IN A CLOSED INSTITUTION. THE ACCUSED KNEW THAT THE VICTIM FEARED THIS."**<sup>244</sup>

	Number of cases	As a percentage of unique cases
Victim has a link <sup>243</sup> to closed institutions	14	12.8%
Victim has a link to open institutions	4	3.7%
Victim has a link to an institution of an unknown type	13	11.9%
Offender has a link to closed or open institutions	5	4.6%
Number of cases not linked to institutions or youth care services	74	67.9%
<b>Total number of unique cases of sexual exploitation of children*</b>	<b>109</b>	
Convictions of accomplices (not counted twice)	35	
<b>Total number of convictions</b>	<b>145</b>	

\* In one case, both the victim and offender had a history of institutionalisation. This case is not counted twice.

When looking at specific cycles of institution-related trafficking through case law analysis, the trafficking of children directly out of institutions seems particularly prevalent. Cases in which children were trafficked after running away from the institution, and cases of care leavers being trafficked, were also identified. In some cases, the perpetrator of the trafficking was known to be a care leaver or was placed in an institution as a result of the court's verdict. This highlights the trend of perpetrators and victims being placed in the same institution, which often perpetuates cycles of exploitation. Although not providing statistically representative data, this analysis of case law illustrates the co-existence of multiple cycles of institution-related trafficking in the Dutch context.

**"THE VICTIM WAS CALLED BY THE SUSPECT WHOM SHE KNEW FROM A CLOSED INSTITUTION WHERE SHE USED TO STAY."**<sup>245</sup>

	Number of cases	As a percentage of unique cases linked to institutions
Victim trafficked inside the institution	1	2.9%
Victim trafficked directly out of the institution	12	34.3%
Victim trafficked after running away from the institution	9	25.7%
Victim is known to be a care leaver	8	22.9%
Victim is trafficked out of fear of being placed in an institution	1	2.9%
Victim is known to have been placed in an institution after exploitation	1	2.9%
Offender is known to be a care leaver	3	8.6%
Offender placed in an institution by the court	2	5.7%
<b>Total number of unique cases of sexual exploitation of children linked to institutions*</b>	<b>35</b>	

\* In one case, both the victim and offender had a history of institutionalisation. In another case, the victim was exploited both inside the institution and as a care leaver. These cases are not counted twice.

243 A 'link' to children's institutions is understood as any relevant mention of institutional care in the published court case that was analysed for the purpose of this research. The 'link' may have been of long or short duration, as this is often not stated in the case documents.

244 Rechtbank Noord-Holland (Court of North Holland). (2015). *Uitspraak ECLI:NL:RBNH0:2015:4900* [Judgement: ECLI:NL:RBNH0:2015:4900]. Original citation: '[slachtoffer] gaat ervan uit dat wanneer zij naar huis zou teruggaan, zij geplaatst zal worden in een gesloten instelling.23 Verdachte wist dat [slachtoffer] hiervoor vreesde.'

<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBNH0:2015:4900> [accessed 1 September 2021].

245 Rechtbank Midden-Nederland (Court of Central Netherlands). (2015). Original citation: '[slachtoffer] werd gebeld door [verdachte] die ze kende uit een gesloten instelling waar zij vroeger verbleef.'

<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBME:2015:2956> [accessed 1 September 2021].

## INDIA

## OVERVIEW

In 2020, Lumos undertook desk research into Indian case law on child trafficking to give an indication of the country's overall scale of institution-related trafficking.<sup>246</sup> Limited data exists on the cycles of institution-related trafficking as a proportion of overall child trafficking cases in India. The desk research included all 91 publicly available high court-level cases from 2015 to 2019 that referenced both Section 370 of the Indian Penal Code (which defines human trafficking in Indian law) *and* where the victim was a child.<sup>247</sup>

## CONTEXT

Government data from 2016-17 indicates that at least 370,000 children were living in more than 9,500 residential 'childcare institutions' (CCIs) in India.<sup>248</sup> More than 87,000 children lived in CCIs in the state of Tamil Nadu alone. A 2018-2020 audit by the National Commission for Protection for Child Rights (NCPCR) showed that 38% of CCIs did not have adequate measures to prevent any form of physical and emotional abuse of children,<sup>249</sup> a number that rises to 68% in the state of Odisha.<sup>250</sup> This is concerning as many instances of exploitation and trafficking related to child abuse go unnoticed and unaddressed, leaving victims unprotected and no deterrents for perpetrators.

The link between child trafficking and orphanages has been well-documented in India. In 2018, following a petition by the NCPCR, the Supreme Court began to explore allegations that the West Bengal government had illegally formed ad hoc committees to give away 17 orphans for adoption, as an act of child trafficking.<sup>251</sup> It is understood that the outcome of this investigation remains pending. There is evidence of hundreds of children being trafficked both *into* and *out of* orphanages across India.<sup>252,253,254,255</sup>

## KEY FINDINGS

The main results are depicted in the tables on the following page.

*In approximately 15% of the analysed child trafficking cases in India, the victim had some link to institutional care.*

The percentages depicted in the tables only include those victims whose history of institutionalisation was explicitly mentioned in the court judgement; these are therefore conservative estimates. The analysed case law mentions trafficking *into* as well as *out of* residential institutions. Moreover, various victims were placed in institutions after the trafficking occurred. The findings highlight the overrepresentation of institutionalised children in human trafficking court cases in India.

<sup>246</sup> This analysis is based on a primary search of all Indian case law available on Kanooon. (n.d.). <https://indiankanooon.org/> [accessed 1 September 2021] at the time of data collection in 2020.

<sup>247</sup> The definition largely replicates the UN Protocol's definition of trafficking but omits any reference to forced labour.

<sup>248</sup> Indian Ministry of Women & Child Development. (2018). *The Report of the Committee for Analysing Data of Mapping and Review Exercise of Child Care Institutions under the Juvenile Justice (Care and protection of Children) Act, 2015 and Other Homes*. 1. <https://wcd.nic.in/node/2190742> [accessed 28 January 2021], p53.

<sup>249</sup> The Time of India. (2020). '28% child care homes not registered with state govts'. <https://timesofindia.indiatimes.com/india/28-child-care-homes-not-registered-with-state-govts/articleshow/79253513.cms> [accessed 28 January 2021].

<sup>250</sup> Interview Times. (2020). *NCPCR's First Social Audit Shows No Proper Measures Taken In Child Care Homes In Odisha*. <https://interviewtimes.net/no-proper-measures-taken-in-child-care-homes/> [accessed 28 January 2021].

<sup>251</sup> Business Standard. (2018). *Trafficking of orphans: SC seeks response from all states*. [https://www.business-standard.com/article/pti-stories/trafficking-of-orphans-sc-seeks-response-from-all-states-118010401071\\_1.html](https://www.business-standard.com/article/pti-stories/trafficking-of-orphans-sc-seeks-response-from-all-states-118010401071_1.html) [accessed 28 January 2021].

<sup>252</sup> See for example: Nagaraj, A. et al. (2017). *Head of Christian-run orphanage in India arrested in trafficking investigation*. Reuters. <https://www.reuters.com/article/us-india-trafficking-children-idUSKBN1CZ0Z5> [accessed 28 January 2021].

<sup>253</sup> Biswas, S. (218). *The horror story inside an Indian children's home*. BBC. <https://www.bbc.com/news/world-asia-india-45124802> [accessed 1 September 2021].

<sup>254</sup> Neuman, S., *Late Mother Teresa's Order Investigated For Child Trafficking In India*. NPR. <https://www.npr.org/2018/07/17/629681931/late-mother-teresas-order-investigated-for-child-trafficking-in-india?hpid=hp-top-stories%3Ahomepage%2Fstory&hpid=hp-top-stories%3Ahomepage%2Fstory> [accessed 1 September 2021].

<sup>255</sup> Shedrosky, K. (2017). *Two Indian Orphanage Officials Arrested for Selling Babies*. Organized Crime and Corruption Reporting Project. <https://www.occrp.org/en/daily/6092-two-indian-orphanage-officials-arrested-for-selling-babies> [accessed 1 September 2021].



	Number of cases	As a percentage of cases
Victim has a link to a children's home	6	6.6%
Victim has a link to a state-run shelter/rescue home	4	4.4%
Victim has a link to an orphanage	2	2.2%
Victim has a link to another type of residential institution	2	2.2%
Number of cases not linked to residential institutions	77	84.6%
<b>Total number of child trafficking judgments and orders referencing human trafficking legislation*</b>	<b>91</b>	

\* IPC Section 370

**"THE CHILDREN BROUGHT TO THE SHELTER HOMES WERE SENT TO WORK AT DIFFERENT HOUSES IN DEHRADUN AND NOIDA AS A DOMESTIC HELP."**<sup>256</sup>

	Number of cases	As a percentage of unique cases linked to institutions
Victim trafficked into the institution	4	28.6%
Victim trafficked out of the institution	1	7.1%
Victim is known to have been placed in an institution after trafficking	7	50.0%
Victim of sexual exploitation	7	50.0%
Victim of labour exploitation	7	50.0%
Victim of financial exploitation	1	7.1%
<b>Total number of unique cases of sexual exploitation of children linked to institutions*</b>	<b>14</b>	

\* For most cases, several of the above statements are applicable at the same time.

**"CHILDREN WERE KEPT IN THE ORPHANAGES IN SPITE OF THE FACT THAT THEIR PARENTS ARE ALIVE IN ORDER TO RECEIVE THE GRANT FROM THE [GOVERNMENT AND FOREIGN INSTITUTIONS]."**<sup>257</sup>

<sup>256</sup> Uttaranchal High Court. (2017). *State Of Uttarakhand vs Sartaj Khan on 7 December, 2017*. Government Appeal No. 139 of 2016. <https://indiankanooon.org/doc/4044462/> [accessed 1 September 2021].

<sup>257</sup> Jharkhand High Court. (2015). *Mohammed Alamgeer And Anr vs The State Of Jharkhand on 4 February, 2015*. Criminal Miscellaneous Petition No. 2854 of 2014. <https://indiankanooon.org/doc/73106930/> [accessed 1 September 2021].

## CHAPTER 5

## VULNERABILITY, RISKS AND DRIVERS

Around the world, children are put in institutions for a wide range of reasons, including poverty,<sup>258</sup> disability<sup>259</sup> and social exclusion.<sup>260</sup> Similar risk factors help explain children's vulnerability to trafficking.<sup>261</sup>

This chapter examines the factors that can put children at risk of institution-related trafficking, and how different vulnerabilities interact with each other. In this report, the terms 'vulnerability' and 'risk factor' are used interchangeably.

### VULNERABILITY MODEL

In the context of human trafficking, according to the International Organization for Migration (IOM) "[t]he concept of vulnerability can be understood to mean that some people are more susceptible to harm, relative to others, as a result of exposure to some form of risk. [...] Risk factors depend on the type of harm being examined and may or may not overlap."<sup>262</sup> In the context of children's wellbeing, the Organisation for Economic Co-operation and Development (OECD) explains that vulnerability is understood as variable over time: "Types and degrees of child vulnerability vary as these factors change and evolve."<sup>263</sup>

Vulnerability to institution-related trafficking can therefore be defined as the result of exposure to the compounded risk factors for child institutionalisation and human trafficking.

Exposure to risk factors can occur simultaneously, for example in the case of orphanage trafficking where the child is institutionalised and trafficked at the same time, or at different times; in the latter, vulnerabilities compound over time. Although not all children in institutions have been or will become victims of trafficking, the evidence presented in this chapter shows that institutionalisation itself increases the risk of being trafficked. Because of the contextual nature of vulnerability, this chapter uses an intersectional analysis of the complex risk factors to help explain susceptibilities to institution-related trafficking.

This report builds upon the *IOM Determinants of Migrant Vulnerability Model*<sup>264</sup> to conceptualise and analyse different risks to institution-related trafficking.

The model differentiates between four levels at which vulnerability can be experienced, as explained below:

- 1. Individual factors** – characteristics that place a particular child at increased risk of institution-related trafficking. Regardless of whether structural drivers exist in a specific country or community, some children will be at risk.
- 2. Household and family factors** – characteristics within a child's family or household that place them at increased risk of institution-related trafficking.
- 3. Community factors** – characteristics within a child's community which place them at increased risk of institution-related trafficking. These may arise during or after a major event, as well as from humanitarian and/or political responses. In such circumstances, *all* children in the community are made more vulnerable.
- 4. Structural factors** – drivers that exist as a result of institutional, cultural, or economic norms and realities, whether regional, national or global. These drivers can create a system in which children are more vulnerable to institution-related trafficking than they might otherwise be.

This research has identified 12 key vulnerabilities that put children at increased risk of institution-related trafficking. As the vulnerability model on the next page shows, these vulnerabilities exist across the four levels outlined above. It is important to note that all these factors can co-exist, compounding the level of vulnerability. For those children experiencing multiple vulnerability factors, the risk of institution-related trafficking increases.

258 Csáky, C. (2009). *Op. cit.*, p2.

259 EveryChild & Better Care Network. (2012). *Op. cit.*

260 Csáky, C. (2009). *Op. cit.*

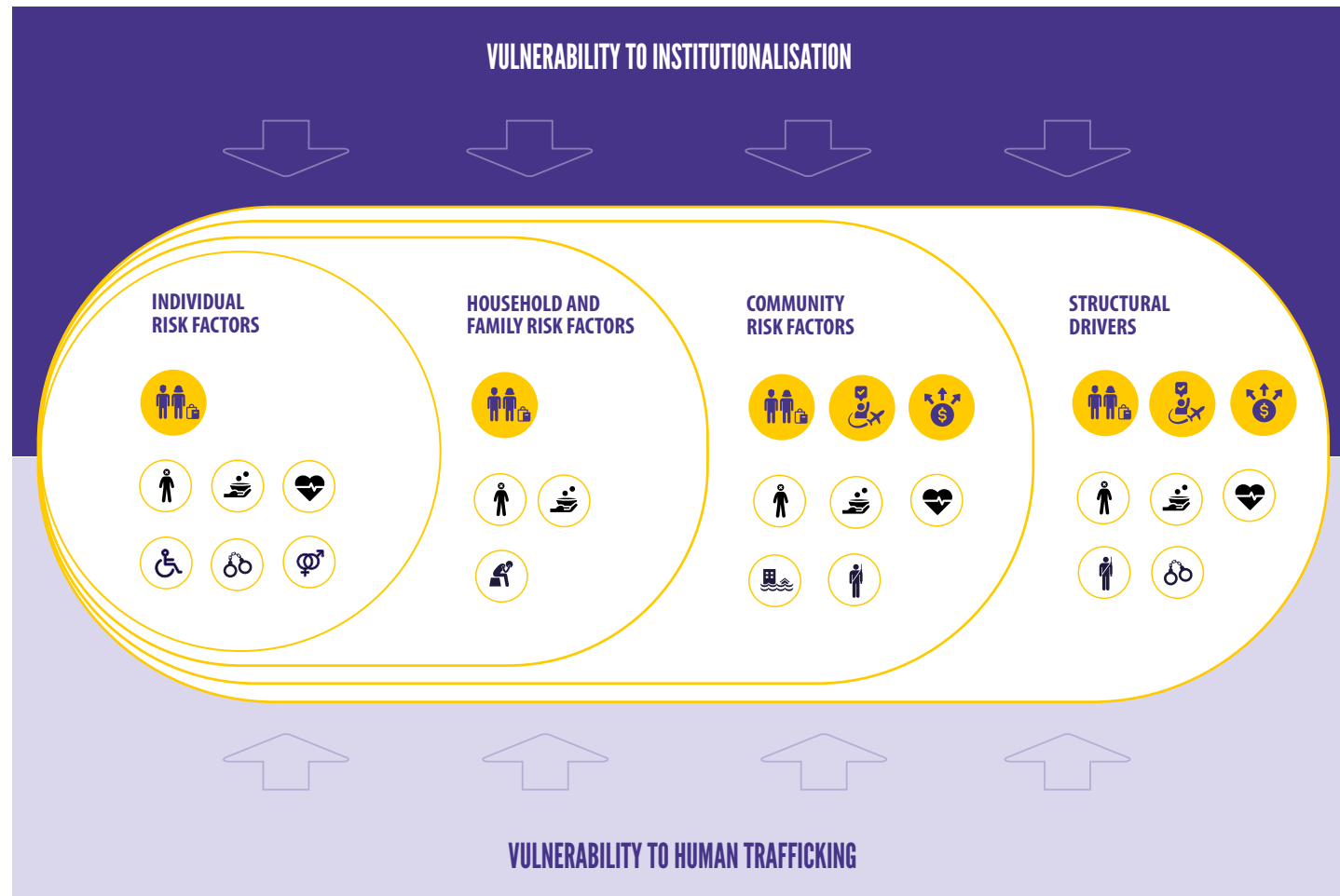
261 United Nations Office on Drugs and Crime (UNODC). (2018). *Global Report on Trafficking in Persons*. [https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP\\_2018\\_BOOK\\_web\\_small.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTIP_2018_BOOK_web_small.pdf) [accessed 18 November 2020].

262 International Organization for Migration (IOM). (n.d.). *The Determinants of Migrant Vulnerability: Part 1*. [https://www.iom.int/sites/default/files/our\\_work/DMM/MPA/1-part1-theodomv.pdf](https://www.iom.int/sites/default/files/our_work/DMM/MPA/1-part1-theodomv.pdf) [accessed 1 September 2021], p4.

263 OECD. (n.d.). *What is child vulnerability and how can it be overcome?* <https://www.oecd-ilibrary.org/sites/23101e74-en/index.html?itemId=/content/component/23101e74-en> [accessed 1 September 2021].

264 International Organization for Migration (IOM). (n.d.). *Op. cit.*, p4.

## VULNERABILITY MODEL: RISKS AND DRIVERS OF INSTITUTION-RELATED TRAFFICKING



### GENERAL RISK FACTORS AND DRIVERS

- GENDER
- DISABILITY
- ABUSE AND NEGLECT
- POVERTY
- ARMED CONFLICT AND COMMUNITY VIOLENCE
- NATURAL DISASTERS
- ILLNESS
- DISCRIMINATION
- INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM

Many of these vulnerabilities are common and can impact a child's life in multiple ways. This report examines how they interact with institution-related trafficking. In particular, it identifies three of these vulnerabilities as having a unique relationship to institution-related trafficking.

### SPOTLIGHTS

- FUNDING**
- VOLUNTEERING AND TOURISM**
- MIGRATION AND REFUGEE STATUS**

Each of these is discussed further in the 'Spotlight' sections – see page 79.

## COMMON RISKS AND DRIVERS



### GENDER

Gender has a major impact not just on a child's level of vulnerability to trafficking, but also on the types of exploitation they are most likely to experience. Globally, women and girls are more vulnerable to trafficking than men and boys,<sup>265</sup> meaning that girls and female care leavers are likely to be particularly at risk of institution-related trafficking.

Girls are especially vulnerable to trafficking for several reasons. Factors such as pregnancy can increase vulnerability,<sup>266</sup> as can financial instability as a result of gender discrimination.<sup>267</sup> In Latvia for example, girls from orphanages and other social care institutions were one of the groups most at risk of trafficking. Compounding this issue further is the fact that women and girls suffer disproportionately in places where the rule of law is weak, and face multiple barriers to justice.<sup>268</sup> Evidence indicates that legal frameworks fail to adequately protect and promote women's rights, highlighting the need to integrate gender in laws and policies.

Girls are also more likely than boys to be trafficked for the purpose of sexual exploitation.<sup>269</sup> This is the case in Belgium, where girls living in institutions, who may be deprived of any kind of affection, are then manipulated and exploited by traffickers.<sup>270</sup>

Boys who experience institution-related trafficking are often trafficked for the purpose of forced begging, especially when younger, or for forced labour, as well as to carry out criminal activity.<sup>271</sup>



### DISABILITY

The fact that disability is a major risk factor for child institutionalisation is well-documented.<sup>272</sup> Children with disabilities are often sent to live in institutions because of a belief that they can only be cared for in an institutional setting, or due to a lack of inclusive education in their communities.<sup>273</sup>

Once in an institution, these children become vulnerable to institution-related trafficking. Institutionalised children with disabilities are potentially more vulnerable to institution-related trafficking than their peers who live in institutions but do not have a disability. In Ukraine, serious exploitation and trafficking have been found in institutions for children with disabilities, including children with disabilities being forced to carry out intense physical labour.<sup>274</sup> Similarly, children with disabilities in Ethiopian orphanages have been subjected to 'work therapy'; essentially, forced labour.<sup>275</sup>

Furthermore, girls with disabilities living in institutional care are at greater risk of sexual exploitation, particularly girls with learning disabilities. This has been seen in both Latvia<sup>276</sup> and in the Netherlands, where girls with learning disabilities in residential care have been found to be at risk of being trafficked for sexual exploitation.<sup>277</sup>

265 United Nations Office on Drugs and Crime (UNODC). (2020). *Op. cit.*  
 266 Lumos. (2019). [Anonymous call for evidence submission]. Unpublished data: on file with Lumos.  
 267 Lumos. (2019). [Call for evidence submission from Child Focus in Belgium]. Unpublished data: on file with Lumos.  
 268 Jacobson, R. (2014). *Women and the Rule of Law: A View from the Americas*.  
[https://static1.squarespace.com/static/579fc2ad725e253a86230610/t/57ec73a7d2b8573754059182/1475113903063/Jacobson\\_Vol38No2.pdf](https://static1.squarespace.com/static/579fc2ad725e253a86230610/t/57ec73a7d2b8573754059182/1475113903063/Jacobson_Vol38No2.pdf) [accessed 1 September 2021].  
 269 Lumos. (2019). [Anonymous call for evidence submission]. Unpublished data: on file with Lumos.  
 270 Lumos. (2019). [Call for evidence submission from ECPAT Belgique in Belgium]. Unpublished data: on file with Lumos.  
 271 Lumos. (2019). [Anonymous call for evidence submission]. Unpublished data: on file with Lumos.  
 272 EveryChild & Better Care Network. (2012). *Op. cit.*  
 273 EveryChild & Better Care Network. (2012). *Op. cit.*  
 274 Disability Rights International (DRI). (2015). *Op. cit.*  
 275 Lumos. (2019). [Anonymous call for evidence submission from Ethiopia]. Unpublished data: on file with Lumos.  
 276 Lumos. (2019). [Call for evidence submission from Council of Europe - GRETA in France]. Unpublished data: on file with Lumos.  
 277 Lumos. (2019). [Call for evidence submission from Defence for Children - ECPAT in the Netherlands]. Unpublished data: on file with Lumos.



## ABUSE AND NEGLECT

Abuse and neglect are common consequences for children who become victims of institution-related trafficking. They can also drive the phenomenon: within institutions, children who have previously experienced abuse or neglect, either in the family environment or in the institution itself, are more likely to experience trafficking and other forms of exploitation.<sup>278</sup> In Belgium, girls who have been victims of abuse are likely to be preyed on by 'loverboys', who will exploit them for sexual purposes.<sup>279</sup>

The reason why children and young people with a history of abuse are more at risk of exploitation than their peers is complicated. In part, it is because these young people are likely to perceive harmful or even violent behaviours as normal and may accept treatment that other young people may not.<sup>280</sup> Children who have suffered abuse and neglect are also often desperate to change their lives and will therefore accept situations they suspect may be exploitative if their alternative is to remain in an abusive situation.<sup>281</sup>

278 Lumos. (2019). [Call for evidence submission from Council of Europe - GRETA in France]. Unpublished data: on file with Lumos.

279 Lumos. (2019). [Call for evidence submission from ECPAT Belgique in Belgium]. Unpublished data: on file with Lumos.

280 *Ibid.*

281 Lumos. (2019). [Call for evidence submission from Council of Europe - GRETA in France]. Unpublished data: on file with Lumos.

282 See for example Comhlamh & Orphanage Working Group. (n.d.). *Children First: A Global Perspective on Volunteering in Orphanages and Transforming Care*. <https://comhlamh.org/blog/children-first-a-global-perspective-on-volunteering-in-orphanages-and-transforming-care/> [accessed 1 September 2021].

283 Lumos. (2019). [Call for evidence submission from The Umbrella Foundation in Nepal]. Unpublished data: on file with Lumos.

284 Lumos. (2016). *Op. cit.*

285 Lumos. (2019). [Call for evidence submission from Council of Europe - GRETA in France]. Unpublished data: on file with Lumos.

286 Brock, J. (2017). *Preventing Orphanage Tourism: A Practical Guide for the Tourism Industry*. Myanmar Responsible Tourism Institute, Hanns Seidel Foundation and Ministry of Hotels and Tourism in Myanmar.

287 Hynes, P. et al. (2019). *Between Two Fires: Understanding Vulnerabilities and the Support Needs of People from Albania, Vietnam and Nigeria who have experienced Human Trafficking into the UK*. IOM & University of Bedfordshire. <https://www.beds.ac.uk/trafficking> [accessed 4 June 2020].



## POVERTY

Poverty is one of the most significant drivers of institution-related trafficking and is likely to interact with every other risk factor.

In many countries, traffickers will recruit children from impoverished communities and bring them to institutions that exist to elicit donations from well-meaning volunteers and funders. Families may be told that their children will be taken to a boarding school where they will have access to education and a better quality of life than the parents can provide.<sup>282</sup> This has been seen in Nepal<sup>283</sup> and Haiti,<sup>284</sup> among other countries.

Poverty is also used as a justification to place children into institutions. In Hungary, for example, parents are sometimes perceived by social workers as being neglectful because they struggle to provide for their children when they are simply experiencing poverty.<sup>285</sup> Similarly in Myanmar, it has been found that the majority of children living in institutional care have been placed there as a result of poverty, not orphanhood.<sup>286</sup>

Many care leavers face poverty when they grow too old for the care system, as they have no financial safety net and often struggle to find employment.<sup>287</sup> They can therefore be extremely vulnerable to traffickers, as their desperation may lead them to rely on people who wish to exploit them.<sup>288</sup> This is a particular risk in countries where care ends below the age of 18, as younger children are more vulnerable.



## ARMED CONFLICT AND COMMUNITY VIOLENCE

Armed conflict can be a major cause of children being placed in institutions, especially where a large-scale loss of life leads to an increase in the number of children losing one or both parents. In countries that rely on children's institutions, such children might be placed in orphanages, instead of with extended family or in community-based alternatives, in an attempt to protect them. Sometimes this problem is worsened by an ill-informed international response to crisis, with money being poured into supporting existing orphanages and the building of new ones.<sup>289</sup> This can lead to the proliferation of a system that is harmful to children and offers opportunities for corrupt individuals or groups to set up orphanages for financial gain.<sup>290</sup> In both cases, children in nearby communities are vulnerable to institution-related trafficking. More about the effect of international aid in emergencies can be found on page 80.

Conflict can also increase vulnerabilities that are known to drive family separation such as poverty and a lack of access to basic services. For example, the recent conflict in Ukraine has seen large numbers of schools bombed.<sup>291</sup> In some conflicts, young boys are at particular risk of being trafficked as child soldiers into armed groups.<sup>292</sup> In turn, these dangers can leave families particularly susceptible to individuals seeking to recruit children into orphanages in other locations for financial gain, as it may seem that their vulnerable children would be safer or have better opportunities in areas less affected by conflict.

288 *Ibid.*

289 Save the Children. (2018). *The War on Children*. [https://www.savethechildren.org.uk/content/dam/global/reports/education-and-child-protection/war\\_on\\_children-web.pdf](https://www.savethechildren.org.uk/content/dam/global/reports/education-and-child-protection/war_on_children-web.pdf) [accessed 18 November 2020].

290 *Ibid.*

291 *Ibid.*




## CASE STUDY – NEPAL

The civil war in Nepal, which lasted for a decade and caused devastation within the country, was a major driver of orphanage trafficking.<sup>293</sup> Many children were displaced, and educational services were often disrupted or simply not accessible. Children in many areas were also at risk of conscription into armed groups.<sup>294</sup> Parents' fears for their children's future amid conflict were easy for traffickers to exploit: they were willing to send their children away to institutions they often believed to be boarding schools, in the hope that they would be safe there and receive an education.<sup>295</sup>

For many years, Nepal has been a popular destination for 'voluntourists' – tourists who choose to work in orphanages during trips abroad. As this trend grew, Nepal also saw a rise in the number of orphanages into which children were trafficked in order to solicit donations from well-meaning volunteers.<sup>296</sup> A 2017 study estimated that 16,000 children live in orphanages, mostly in cities and tourist destinations, and almost exclusively funded by foreign donations.<sup>297</sup>

Aside from the economic exploitation inherent in the orphanage trafficking cycle, it is also well documented that many of the children living in these orphanages are sexually exploited by staff or volunteers.<sup>298</sup> It is also common for children to be made to dance as part of shows advertised to tourists, for the economic benefit of the orphanage staff.<sup>299</sup>

This example demonstrates the crucial importance of child protection interventions within conflict-afflicted countries to prevent family separation, as well as strict controls on the practice of orphanage volunteering.

292 Lumos. (2019). [Call for evidence submission from War Child UK]. Unpublished data: on file with Lumos.

293 Punaks, M. & Lama, S. (2021). *Op. cit.*

294 Lumos. (2019). [Call for evidence submission from Martin Punaks in the United Kingdom]. Unpublished data: on file with Lumos.

295 Lumos. (2019). [Call for evidence submission from The Umbrella Foundation in Nepal]. Unpublished data: on file with Lumos.

296 Lumos. (2019). [Call for evidence submission from Next Generation Nepal]. Unpublished data: on file with Lumos.

297 Elevate Children Funders Group. (2017). *Policy Brief: Why Funding for Orphanages is Harming the Children it Aims to Help*. [https://wordpress.foundationcenter.org/elevatechildren/wp-content/uploads/sites/33/2018/12/Orphanages\\_Policy\\_Brief\\_NEPAL.pdf?\\_ga=2.159091066.1101635328.1580467543-581003638.1580467543](https://wordpress.foundationcenter.org/elevatechildren/wp-content/uploads/sites/33/2018/12/Orphanages_Policy_Brief_NEPAL.pdf?_ga=2.159091066.1101635328.1580467543-581003638.1580467543) [accessed 28 January 2021].

298 ECPAT. (2020). *Sexual Exploitation of Children in Nepal*. <https://bettercarenetwork.org/sites/default/files/2020-02/ECPAT-Briefing-Paper-on-the-Sexual-Exploitation-of-Children-in-Nepal-2020-ENG.pdf> [accessed 17 November 2020].

299 Lumos. (2019). [Call for evidence submission from Next Generation Nepal]. Unpublished data: on file with Lumos.



## NATURAL DISASTERS

The impact of 'natural' or climate-related disasters on vulnerable children is a significant driver of institution-related trafficking.<sup>300</sup> The chaos caused by disasters like floods or earthquakes often leads to widespread family separation. If no robust child safeguarding process is put in place, many children will be at risk of trafficking as a result.<sup>301</sup> Frequently, during the direct aftermath of such disasters, orphanages spring up to house separated or newly orphaned children.<sup>302,303</sup> While this may be intended as a short-term emergency response, evidence suggests that these shelters can become permanent solutions, remaining in place well after the initial impact of the disaster has subsided.<sup>304,305</sup>



300 Lumos. (2019). [Call for evidence submission from Miracle Foundation in India]. Unpublished data: on file with Lumos.

301 Lumos. (2019). [Call for evidence submission from Save the Children UK]. Unpublished data: on file with Lumos.

302 Lumos. (2017). *Op. cit.*

303 Save the Children. (n.d.). *Indonesian 'orphans' on the increase as Tsunami pushes parents into poverty and children in institutions.* <http://reliefweb.int/sites/reliefweb.int/files/resources/A33B5EE2179FE21FC1257230004FC11A-sc-ids-27nov.pdf> [accessed 12 April 2021].

304 Better Care Network et al. (2013). *Protect my future. Why child protection matters in the post-2015 development agenda.* Family for Every Child.

305 Doyle, J. (2010). *Misguided Kindness: Making the Right Decisions for Children in Emergencies.* Save the Children UK. [https://www.barnahelil.is/static/files/pdf/misguided\\_kindness.pdf](https://www.barnahelil.is/static/files/pdf/misguided_kindness.pdf) [accessed 1 September 2021].

306 Better Care Network. (2020). *Guidance for Alternative Care Provision During COVID-19.* <https://bettercarenetwork.org/sites/default/files/2020-09/GuidanceforAlternativeCareCOVID19final.pdf> [accessed 18 November 2020].

307 UNICEF. (2016). *Care and Protection of Children in the West African Ebola Virus Disease Epidemic.* <https://resourcecentre.savethechildren.net/node/10319/pdf/final-ebola-lessons-learned-dec-2016.pdf> [accessed 17 November].

308 Terre Des Hommes. (2020). *Situation Analysis: The Impact of COVID-19 on Families in Need in Albania.* [https://bettercarenetwork.org/sites/default/files/2020-05/situation\\_analysis\\_tdh\\_covid\\_19\\_eng.pdf](https://bettercarenetwork.org/sites/default/files/2020-05/situation_analysis_tdh_covid_19_eng.pdf) [accessed 18 November 2020].

309 Punaks, M. & Lama, S. (2021). *Op. cit.*

310 *Ibid.*



## ILLNESS

When countries or communities are hit by contagious diseases, children are likely to become increasingly vulnerable as a result. Sadly, this has been witnessed on a global scale in 2020 and 2021 during the COVID-19 pandemic, and its impact on children is currently still being documented.<sup>306</sup>

As with other structural drivers such as conflict and disaster, epidemics are likely to cause widespread loss of life, and as a result, an increase in orphanhood, which can lead to the proliferation of orphanages.<sup>307</sup> Furthermore, loss of income as a result of national lockdown measures can create widespread poverty, one of the most significant drivers of institution-related trafficking.<sup>308</sup> Governments seeking to adapt child safeguarding measures in response to COVID-19 can learn from past epidemics. This is explored in more detail in the case study on Liberia, on the next page.

In some countries, COVID-19 has led to the rapid closure of institutions. For example, in Nepal, it is estimated that almost 10% of children in institutions were returned to their communities in the 10 days prior to the country's national lockdown in March 2020.<sup>309</sup> However, such rapid deinstitutionalisation does not allow for the proper assessment, preparation and case management needed for reintegration. This can lead to family breakdowns, with children again being put at risk of institutionalisation and, therefore, institution-related trafficking.<sup>310</sup>



## CASE STUDY – LIBERIA

Between 2013 and 2016, Liberia, along with much of West Africa, was gripped by the Ebola epidemic. The enormous loss of life had a huge impact on the country's most vulnerable children, the youngest of whom were particularly at risk from the disease: 90% of infected infants died of the disease, as well as 80% of children under four.<sup>311</sup>

Those who did manage to escape sickness or death sometimes found their lives devastated by the epidemic in other ways: Ebola was also deadly for working-age adults, the demographic most likely to be parents or caregivers of children.<sup>312</sup> This meant that the number of children without parental care rose very sharply during the epidemic years.

Traditionally in Liberia, kinship care, and other forms of family and community-based care, have been the common practice for children deprived of their family environment. Studies have suggested that newly created orphans in Liberia are often quickly absorbed into families.<sup>313</sup> However, this practice was somewhat hindered during the Ebola crisis, due both to the fear of contagion and to the sheer volume of children suddenly requiring care.<sup>314</sup> There were also reports of a rise in institutions due to the epidemic – sometimes called 'Ebola Orphanages',<sup>315</sup> leading to serious concerns that these orphanages may become 'hubs' for human trafficking.<sup>316</sup> In Liberia, as in other countries, orphaned children who have no support structure are vulnerable to trafficking and other forms of exploitation, such as street begging and sexual exploitation.<sup>317</sup>

The West African Ebola outbreak offers insights into how the COVID-19 pandemic might impact child protection systems worldwide. Although the age profile for those most at risk of death or severe illness from the COVID-19 virus is older than that of Ebola, there is still likely to be a rise in the number of orphans in many countries. Furthermore, those children already living in the care of elderly relatives, such as grandparents, will be at risk of losing their caregivers. As child protection services grapple with these problems, it is vital that they do not turn to institutionalisation to address them.

311 Mercy Corps. (2019). *Chapter 6: The effects of an Ebola outbreak on children in Africa.* <https://www.mercycorps.org/blog/ebola-outbreaks-africa-guide/chapter-6> [accessed 1 September 2021].

312 The World Bank. (2015). *Orphans and Ebola Estimating the Secondary Impact of a Public Health Crisis.* <https://resourcecentre.savethechildren.net/node/14096/pdf/wps7196.pdf> [accessed 17 November 2020].

313 Better Care Network. (2013). *Liberia: Children's Care and Living Arrangements.* <https://bettercarenetwork.org/sites/default/files/Liberia%20DHS%202013%20Children%27s%20Care%20and%20Living%20Arrangements.pdf> [accessed 17 November 2020].

314 Plan International. (2014). *Young Lives on Lockdown – The Impact of Ebola on Children and Communities in Liberia* [https://resourcecentre.savethechildren.net/node/8708/pdf/ih-liberia\\_ebola\\_interim\\_report-final-io-eng-dec14\\_1.pdf](https://resourcecentre.savethechildren.net/node/8708/pdf/ih-liberia_ebola_interim_report-final-io-eng-dec14_1.pdf) [accessed 17 November 2020].

315 UNICEF. (2016). *Care and Protection of Children in the West African Ebola Virus Disease Epidemic.* <https://resourcecentre.savethechildren.net/node/10319/pdf/final-ebola-lessons-learned-dec-2016.pdf> [accessed 17 November].

316 Lumos. (2019). [Anonymous call for evidence submission from Liberia]. Unpublished data: on file with Lumos.

317 U.S. Department of State. (2018). *Op. cit.*



## DISCRIMINATION

Racial discrimination is a major driver of institution-related trafficking. One of the most well-documented examples of this is the experience of Roma communities in many European countries, from whom Roma children are disproportionately taken into institutional care.<sup>318</sup> In Hungary, research has shown that children from Roma communities are often placed in institutions as a temporary intervention which frequently ends up being a permanent placement.<sup>319</sup> In many cases, this will have happened due to concerns about trafficking within their communities, but the children are rarely any safer in institutional care.<sup>320</sup> These children are at heightened risk of trafficking when they leave institutions, particularly due to being socially isolated. Roma girls are the most at risk, with evidence highlighting their vulnerability to trafficking for the purpose of sexual exploitation.<sup>321</sup> Similar patterns have been seen among Roma communities in Moldova, where segregated schooling has been blamed for their heightened risk of trafficking.<sup>322</sup>

While Roma communities have been the subject of much research and scrutiny, other minority groups are overrepresented in alternative care in particular countries, and as such are at risk of experiencing institution-related trafficking. For example, in Australia and Canada, children from indigenous communities are placed in alternative care at much higher rates than their non-indigenous peers.<sup>323</sup> In fact, in both countries, indigenous communities have faced family separation for generations. Both the Canadian and Australian governments systemically removed indigenous children from their families and placed them in residential care for much of the 19<sup>th</sup> and 20<sup>th</sup> centuries.<sup>324</sup>



## INVOLVEMENT WITH THE CRIMINAL JUSTICE SYSTEM

Children who have come into conflict with the law are often at risk of being trafficked, especially those who have been placed in some form of correctional facility, which can be similar to an institutional setting.<sup>325</sup> In part, increased vulnerability among these children can arise as a result of trauma during their time in a correctional facility or juvenile detention centre. This has been observed in the United Kingdom, for example, where case workers felt that child trafficking victims had become more vulnerable to exploitation during their placement in a detention centre.<sup>326</sup> Children who spend time in correctional facilities, such as prisons, are at increased risk of coming into contact with traffickers and may therefore be at greater risk of trafficking both during their time in the facility and on their release.<sup>327</sup>

Institutions can also be used in response to, or to prevent, children's involvement in the criminal justice system. For example, in some Muslim communities in West Africa, boys who have been in trouble with the law, or who are deemed as being at risk of involvement in illegal activities, are often sent away from their families to live in *mahadras* – Koranic boarding schools which can be institutional in nature.<sup>328</sup> In China, reports highlight that orphanages are being used as part of state campaigns against Muslim minorities in the Xinjiang province, with the children of men who have been arbitrarily detained placed in orphanages as part of forced political indoctrination programmes.<sup>329</sup>

**ALTHOUGH NOT ALL CHILDREN IN INSTITUTIONS HAVE BEEN OR WILL BECOME VICTIMS OF TRAFFICKING, EVIDENCE SHOWS THAT INSTITUTIONALISATION ITSELF INCREASES THE RISK OF BEING TRAFFICKED.**

318 European Roma Rights Centre. (2021). *Blighted Lives: Romani Children in State Care*. [http://www.errc.org/uploads/upload\\_en/file/5284\\_file1\\_blighted-lives-romani-children-in-state-care.pdf](http://www.errc.org/uploads/upload_en/file/5284_file1_blighted-lives-romani-children-in-state-care.pdf) [accessed 1 September 2021].

319 Lumos. (2019). [Call for evidence submission from RENATE Europe in the Netherlands]. Unpublished data: on file with Lumos.

320 Lumos. (2019). [Call for evidence submission from the Council of Europe - GRETA in France]. Unpublished data: on file with Lumos.

321 Lumos. (2019). [Call for evidence submission from Royal Holloway - University of London in the United Kingdom]. Unpublished data: on file with Lumos.

322 Lumos. (2019). [Call for evidence submission from the Minderoo Foundation in Australia]. Unpublished data: on file with Lumos.

323 Australian Institute of Health and Welfare. (2020). *Child Protection Australia 2018-19*. <https://www.aihw.gov.au/getmedia/3a25c195-e30a-4f10-a052-adbfd56d6d45/aihw-cws-74.pdf.aspx?inline=true> [accessed 1 September 2021], p53.

Kassam, A. (2017). *Ratio of Indigenous Children in Canada Welfare System is 'humanitarian crisis'*. The Guardian <https://www.theguardian.com/world/2017/nov/04/indigenous-children-canada-welfare-system-humanitarian-crisis> [accessed 18 November 2020].

324 Buti, A. (2002). *The Removal of Aboriginal Children: Canada and Australia Compared*. University of Western Sydney Law Review 26(1).

325 ECPAT UK & Missing People. (2018). *Still in Harm's Way*. <https://www.ecpat.org.uk/Handlers/Download.ashx?DMF=27ebad70-3305-4e41-a5ca-7a1f24cba698> [accessed 18 November 2020].

326 Lumos. (2019). [Call for evidence submission Anti Trafficking and Labour Exploitation Unit in the United Kingdom]. Unpublished data: on file with Lumos.

327 ECPAT UK & Missing People. (2018). *Op. cit.*

328 Lumos. (2019). [Anonymous call for evidence submission from Mauritania]. Unpublished data: on file with Lumos.

329 U.S. Department of State. (2021). *Op. cit.*

## 6

## CHAPTER 6

## SPOTLIGHTS



Both create and sustain a demand for 'orphans in orphanages' who can be marketed to overseas donor communities as alone, abandoned and in need of care.

This research identifies three factors as playing key roles in exacerbating the problem of institution-related trafficking. They are:



## FUNDING FOR INSTITUTIONS



## ORPHANAGE TOURISM AND VOLUNTEERING ('VOLUNTOURISM')



## MIGRANT AND REFUGEE CHILDREN BEING LEFT UNACCOMPANIED

Migration is a significant driver of both trafficking and institutionalisation. Unaccompanied children are commonly placed in institutional settings both along the journey and at their destination country. These institutions often fail to protect children from trafficking, and in some cases facilitate their exploitation.



## THE ECONOMIC PARADIGM

Analysing the institutionalisation of children through an economic lens of supply and demand can help to illustrate the broader factors that drive family separation.<sup>330</sup>



**DEMAND:**  
THE APPETITE FOR A  
PRODUCT



**SUPPLY:**  
HOW MUCH THE MARKET  
CAN OFFER

330 Van Doore, K. (2019). *Op. cit.*





## SPOTLIGHT 1: FUNDING

### Funding as an emergency response: creating markets for institutions

In the wake of disaster – with tragic stories circulating globally of families torn apart by natural disasters or conflicts – support for orphanages is a popular response for overseas audiences wanting to contribute to relief efforts.<sup>331</sup>

The subject of relief funding can be contentious, with many arguing that funds channelled through a ‘top-down’ approach can easily be misallocated, wasted, or fall into the hands of corrupt governments or individuals.<sup>332</sup> This is further rooted in the idea that resources can be most efficiently allocated and used by those who are directly connected to a particular issue, and that increasing personal and economic freedom is a powerful force for growth.<sup>333</sup>

The UNICEF Minimum Standards for Child Protection in Humanitarian Action state that in situations of crisis, institutions or residential care services “should only be considered as an alternative care option for the shortest possible time”.<sup>334</sup> The standards call for preserving family unity, understanding that residential care facilities are often a ‘pull’ factor that leads to family separation.

Despite this, the initial response of private philanthropy has led to a proliferation of orphanages and other residential facilities for children in the context of numerous high-profile humanitarian crises. In reality, the number of children who have lost both parents in disaster situations is usually greatly overestimated, while the ability of communities to respond to children’s needs is underestimated.<sup>335</sup> This was seen in the aftermath of the 2015 Nepal Earthquake, when institutions were able to garner financial support from foreign donors to support ‘earthquake orphans’, despite the fact that only 176 children were recorded as being fully orphaned by the earthquakes. This relatively small number of children could have been assessed on an individual basis to find a long-term family solution.<sup>336</sup>

**THE SHEER SIZE AND FRAGMENTED NATURE OF DONATIONS THAT CAN FLOW INTO A COUNTRY FOLLOWING A HUMANITARIAN CRISIS – FROM INDIVIDUALS AND ORGANISATIONS SUCH AS FAITH-BASED GROUPS, CHARITABLE FOUNDATIONS AND BUSINESSES – CAN LEAD TO A LACK OF OFFICIAL OVERSIGHT OF ALLOCATION. THIS CREATES AN IDEAL ENVIRONMENT FOR UNSCRUPULOUS INDIVIDUALS AND CRIMINAL GROUPS TO PROFIT FROM THE ESTABLISHMENT OF BOGUS ORPHANAGES AND CAN UNDERMINE NATIONAL EFFORTS TO SUPPORT BROADER CHILD PROTECTION AND SOCIAL WELFARE SYSTEMS.**

Moreover, in situations where government services and the wider infrastructure have been badly affected, it can become almost impossible to verify children’s family situations immediately, increasing the risk of them being incorrectly categorised as orphans and leaving them vulnerable to permanent separation from their families and communities.<sup>337</sup>

In the aftermath of Haiti’s devastating earthquake in January 2010, the generosity of private citizens from around the world was unprecedented. Americans alone contributed \$1.4 billion to the relief and recovery efforts within the first year following the disaster.<sup>338</sup> However, the initial response did not include a focus on sustainable solutions to strengthen families and communities. Instead, as the result of a perceived ‘orphan’ crisis, Haiti saw at least a 150% increase in the number of orphanages.<sup>339</sup> Similarly, in the aftermath of the December 2004 tsunami in Aceh, Indonesia, 17 new orphanages were built, despite 85% of the victims of the tsunami in these orphanages still having at least one living parent.<sup>340</sup>

331 Doyle, J. (2010). *Op. cit.*

332 Kolm, S.-C. et al. (Eds.). *Handbook of the Economics of Giving, Altruism and Reciprocity*. <https://www.sciencedirect.com/handbook/handbook-of-the-economics-of-giving-altruism-and-reciprocity/vol/2/suppl/C> [accessed 1 September 2021].

333 *Ibid.*

334 UNICEF Child Protection Working Group. (2012). *Minimum Standards for Child Protection in Humanitarian Action*. <https://www.refworld.org/pdfid/5211dc124.pdf> [accessed 19 November 2021], p125.

335 Van Doore, K. (2019). *Op. Cit.*

336 *Ibid.*

337 Save the Children. (2010). *Save the Children Statement on Adoption in Haiti: Every child to be given best possible chance of being reunited with family*. Cited in: Doyle, J. (2010). *Op. cit.*

338 The United Nations earmarked over \$13 billion in earthquake relief through 2020 and Haiti received more than \$9 billion in public and private donations for disaster relief. From: Ramachandran, V. & Walz, J. (2013). *Haiti's earthquake generated a \$9bn response – where did the money go?* The Guardian. <https://www.theguardian.com/global-development/poverty-matters/2013/jan/14/haiti-earthquake-where-did-money-go> [accessed November 2020].

339 Lumos. (2017). *Op. cit.*

340 Save the Children. (n.d.). *Op. cit.*

**DATA SHOWS THAT THE FAITH-BASED SECTOR CONTRIBUTES SIGNIFICANTLY TO THE SUPPORT OF RESIDENTIAL CARE FOR CHILDREN OVERSEAS AND IS GENERALLY LESS BOUND BY REPORTING REQUIREMENTS**

Despite good intentions, support for these orphanages and other forms of institutional care in emergencies can increase the number of separated children. The proliferation of orphanages following displacement and disaster can act as a ‘pull factor’ to vulnerable communities, where parents give their children up so that they can access basic services and provisions that they may not be able to provide themselves. For example, 97.5% of the children placed in residential care in the aftermath of the Aceh tsunami had been placed there by their families so that they could receive an education. If funding had been directed at helping families and communities rather than institutions, these children could have remained at home.<sup>341</sup>

Following the devastating 2015 earthquake in Nepal, an increase in child trafficking and of children being placed in institutions led to immediate child safeguarding concerns.<sup>342</sup> Officials at the District Child Welfare Committee recorded several cases of traffickers posing as either aid workers or as representatives from religious sects, using various enticements to take children away from poor and vulnerable parents to place them in institutions.<sup>343</sup>

### FAITH-BASED FUNDING

Around the world, faith-based organisations and individuals are known to contribute substantial resources – financial, technical, human, and in-kind donations – to help alleviate poverty, support health care, and provide emergency relief.<sup>344</sup> Governments and global financial organisations support faith-based organisations as crucial partners in development and humanitarian programmes.<sup>345</sup>

Data shows that the faith-based sector contributes significantly to the support of residential care for children overseas and is generally less bound by reporting requirements.<sup>346,347</sup> Faith-based funders constitute a somewhat hybrid category, as they may include not only churches, mosques and other religious bodies but also faith-affiliated charitable organisations and religious individuals, including ‘voluntourists’. This sector is particularly complex in the flows of money, resources and people and warrants further research and analysis into how faith-based organisations contribute to the institutionalisation of children overseas.

Research from *Changing the Way We Care* led by Lumos, a forthcoming report which aims to deconstruct the complex financial systems that support institutions in Kenya, found that across 168 children’s residential institutions that provided detailed financial information for the study, the approximate proportion of income from foreign churches and other faith-based organisations was 14.4% on average. Moreover, it appears that religion is a significant motivator for individuals who create online fundraisers for children’s institutions. It was found that 64.3% of the 56 US charitable organisations supporting children’s institutions in Kenya had an explicit faith-based affiliation.<sup>348</sup>

Though not all the Haiti earthquake-related relief came from faith-based communities, part of the faith-based response came from American Catholics who gave over \$85 million to relief efforts in a single weekend.<sup>349</sup> Comparable amounts could also have come from other denominations.

Given the commitment to children’s issues that is often central to religion, it is clear that the faith community has a significant role to play in the transformation of care; there is some evidence to show that this is already being initiated.<sup>350</sup>

341 Martin, F. & Sudrajat, T. (2006) *A Rapid Assessment of Children's Homes in Post-Tsunami Aceh*. Save the Children UK & Indonesian Ministry of Social Affairs.

<https://bettercarenetwork.org/library/the-continuum-of-care/residential-care/a-rapid-assessment-of-childrens-homes-in-post-tsunami-aceh> [accessed 1 September 2021].

342 Better Care Network. (2015). *Better Volunteering, Better Care Initiative Response to Earthquake in Nepal*.

[www.bettercarenetwork.org/news-updates/news/better-volunteering-better-care-initiative-response-to-earthquake-in-nepal](http://www.bettercarenetwork.org/news-updates/news/better-volunteering-better-care-initiative-response-to-earthquake-in-nepal) [Accessed 15 March 2017];

Bennett, C. (2015). *Does this 'Nepal' Image Make You Want to Build These Children a Home? Think Again*. The Guardian.

<http://www.theguardian.com/comments/free/2015/may/07/nepal-children-image-orphanages-donate> [Accessed 15 March 2021].

343 Manandhar, R. (2016). *Many Dolakha Children Missing After Earthquake*.

<http://kathmandupost.ekantipur.com/news/2016-01-27/many-dolakha-children-missing-after-earthquake.html> [Accessed 15 March 2021]

344 Hudson Institute. (2013). *The Index of Global Philanthropy and Remittances, With a Special Report on Emerging Economies*.

[http://www.hudson.org/content/researchattachments/attachment/1229/2013\\_index\\_of\\_global\\_philanthropyand\\_remittances.pdf](http://www.hudson.org/content/researchattachments/attachment/1229/2013_index_of_global_philanthropyand_remittances.pdf) [accessed 1 September 2021].

345 Heist, D. & Cnaan, R.A. (2016). *Faith-Based International Development Work: A Review*. *Religions*. 7(3): 19.

346 Van Doore et al. (2016). *Mapping Australia's support for the institutionalisation of children overseas*. ReThink Orphanages.

<https://bettercarenetwork.org/library/particular-threats-to-childrens-care-and-protection/effects-of-institutional-care/mapping-australia%E2%80%99s-support-for-the-institutionalisation-of-children-overseas> [accessed 1 September 2021].

347 Barna. (n.d.). *Residential Care: U.S. Christian Giving and Missions*

[https://www.faithtoaction.org/wp-content/uploads/F2A\\_Residential-Care\\_Report\\_Final.pdf](https://www.faithtoaction.org/wp-content/uploads/F2A_Residential-Care_Report_Final.pdf) [accessed 1 September 2021].

348 *Changing The Way We Care*. (forthcoming). *Funding Analysis of Children's Institutions in Kenya*. Unpublished document: on file with Lumos.

349 United States Conference of Catholic Bishops. (2014). *Current Situation in Haiti After the 2010 Earthquake*.

<http://www.usccb.org/catholic-giving/opportunities-for-giving/latin-america/reconstruction-of-the-church-in-haiti.cfm> [accessed 1 November 2020].

350 Lumos. (2017). *Op. cit.*



## CASE STUDY – HAITI

To understand why orphanages continue to flourish in Haiti, and how they affect children, Lumos investigated patterns in funding as well as the ramifications of orphanage life for children raised within their walls. At the time of reporting in 2017, an estimated 30,000 children lived in approximately 750 mostly privately-run and financed orphanages in Haiti – only 15% were registered with the Government.<sup>351</sup> The Government of Haiti estimated that 80% of children in orphanages have at least one living parent, and almost all have other family members.<sup>352</sup> Poverty, lack of access to basic services, and the desire to provide an education drive parents and caregivers to place their children in orphanages. With adequate support, many children could return to family and community-based care, and at-risk families could be strengthened to prevent separation in the first instance.<sup>353</sup>

Lumos documented financial support to just over one-third of known Haitian orphanages and found that at least US\$70 million was donated to them annually, predominantly from North American, Christian funders.<sup>354</sup> This means that funding to the orphanage sector in Haiti is one of the most significant forms of any kind of international aid to Haiti, greater than most official development assistance to Haiti by donor countries. It also means that this is just the tip of the iceberg of financial and other forms of support to all the orphanages in the country. A conservative estimate of the total funding to all Haitian orphanages ranges upwards of US\$100 million per year.<sup>355</sup>

This extraordinary investment did not translate to quality care and the best interest of children. At least 140 were believed to have extremely detrimental living conditions where children are at severe risk of violence, exploitation, abuse, neglect, and avoidable death.<sup>356</sup> Though for the most part well-intentioned, investment in orphanages reflects the short-term thinking of foreign funders.

### US\$100 MILLION



- could support 770,000 Haitian children to go to school
- is more than 130 times the reported annual budget of the Haitian child protection agency
- is nearly 5 times the annual budget of the Haitian Ministry of Social Affairs
- could enable all 30,000 children currently in orphanages to be reunited with their families or supported in alternative care.

351 Institut du Bien Être Social et de Recherches (IBESR). (2013). *Annuaire des Maisons d'Enfants en Haïti 2013*. Data on file with Lumos.

352 *Ibid.*

353 Lumos. (2017). *Op. cit.*

354 *Ibid.*

355 *Ibid.*

356 *Ibid.*



## SPOTLIGHT 2: ORPHANAGE TOURISM AND VOLUNTEERING

Volunteer tourism or 'voluntourism' is defined as "a type of holiday in which you work as a volunteer (= without being paid) to 'help' people in the places you visit."<sup>357</sup> Voluntourism has now grown into a billion-dollar industry, designed to cater to people's desire to do good and 'give back', while "occupying an ethically questionable grey area between the commercial tourism and international development sectors".<sup>358</sup> In the context of orphanages and other types of institutional care, voluntourism represents a spectrum of activities related to the support of institutions through financial or material resources or volunteering one's time.<sup>359</sup>

The voluntourism industry has seen rapid growth in recent years, with reports predicting an annual worth of \$2 billion generated from the 10 million tourists seeking this type of experience.<sup>360</sup> The vast amounts of people, money and resources being funnelled from the Global North into countries in the Global South has created an industry that is consumer-driven as opposed to being driven by the needs of the local communities and individuals themselves.<sup>361</sup> Moreover, the industry displays little oversight, regulation or linkages to defined development goals or national policies for the care of children.<sup>362</sup>

Ironically, in the case of orphanage volunteering, the volunteers themselves are often exploited in fulfilling their altruistic motives while at the same time engaging in potential exploitation of the very children they aim to help.

### ORPHANAGE VOLUNTOURISM: SUPPLY AND DEMAND

Participation in voluntourism, or donating time, money and resources to 'good causes' can invoke a sense of self-worth in those who do it, which further legitimises the activity itself. In this context, the desire to 'do good' and 'give back' has also been theorised as "manifestations arising from colonialism, internalised racism and the guilt of privilege".<sup>363</sup>

The perception that there are millions of orphans across the world in need of support (the 'orphan myth'), is a driving force among prospective volunteers.<sup>364</sup> Moreover, orphanage volunteering trips are often facilitated and encouraged by educational settings, reputable travel and tourism companies and religious institutions the world over – further legitimising the activity, and by proxy, negating the undertaking of critical evaluation of the impact on communities, families and children.<sup>365</sup>

Orphanage volunteering is a popular choice for school leavers and university students who have a desire to travel with a 'purpose' and illustrate their altruism for the benefit of future academic or professional applications.<sup>366</sup> A recent YouGov survey<sup>367</sup> commissioned by Lumos, targeting 1,004 full-time UK students aged 17-22, revealed the following results:

357 Cambridge Dictionary. (n.d.). *Voluntourism*. <https://dictionary.cambridge.org/dictionary/english/voluntourism>. [accessed 4 June 2020].

358 Van Doore, K. (2019). *Op. cit.*

359 ReThink Orphanages. (2019). *Mapping the European Contribution to the Institutionalisation of Children Overseas*. <https://rethinkorphanages.org/sites/default/files/2020-03/RO%20European%20Mapping%20FINAL.pdf> [accessed 26 May 2020], p4.

360 Popham, G. (2015). *Boom in 'Voluntourism' Sparks Concerns Over Whether Industry is Doing Good*, Reuters. <http://www.reuters.com/article/us-travel-volunteers-charities-idUSKCN0P91AX20150629> [accessed 12 April 2017].

361 *Ibid.*

362 Rotabi et al. (2017). *Altruistic Exploitation: Orphan Tourism and Global Social Work*. *British Journal of Social Work*. 47: 648-665.

363 Van Doore, K. (2019). *Op. cit.*, p46.

364 Cheney, K.E. & Rotabi, K.S. (2014).

365 Hickel. (2013). *Op. cit.*

366 Georgeou, N & McGloin, C. (2015). *Op. cit.*

367 Lumos. (2021). [Online survey commissioned by Lumos through YouGov]. Unpublished internal data.

## LUMOS ORPHANAGE VOLUNTOURISM SURVEY<sup>368</sup>

### PREVALENCE OF ORPHANAGE VOLUNTOURISM:

- 23% of UK students surveyed aged 17-22 are currently volunteering or actively considering volunteering overseas.
- 22% have either visited or volunteered at an orphanage or know someone who has.
- The most common countries for visiting or volunteering at orphanages are Tanzania (14%) and Uganda (7%).
- 71% said their visits or volunteering experiences were organised by schools, universities or other organisations, with just 4% organised by students themselves. **This finding shows that public and private bodies that source orphanage volunteering opportunities are at the root of the problem.**
- Over a third (34%) who had visited or volunteered at an orphanage paid for the experience.

### MOTIVATIONS FOR ORPHANAGE VOLUNTOURISM:

- 81% of students who would be likely to visit or volunteer at an orphanage if offered the opportunity in future, say they'd do it to 'do something good/give something back' with 70% saying 'for life experience'.
- 66% think that volunteering at an orphanage would be useful in enhancing CV and career prospects, and 65% think this would be useful in enhancing a college/university application.
- 46% of students who have been to orphanages are also (considering undertaking) volunteering in the UK.

### INTENT TO VOLUNTEER AT AN ORPHANAGE:

- 22% of students who haven't visited or volunteered at an orphanage say they would be likely to volunteer at one if offered the opportunity.
- 45% of those actively considering undertaking volunteering overseas say they are likely to volunteer at an orphanage if offered the opportunity.

### KNOWLEDGE OF ORPHANAGE VOLUNTOURISM

- Almost half (47%) of students surveyed believe there are robust safeguarding measures for volunteers going overseas to work with children in orphanages.
- Most (78%) weren't aware that around 8/10 children in orphanages have living parents.
- 54% of all respondents know that children are sometimes trafficked to make money for those running the orphanage.

## ORPHANAGE VOLUNTOURISM AND CHILD TRAFFICKING

There is growing awareness that the flow of international volunteers to orphanages causes children to be separated unnecessarily from their families and increases institutionalisation, creating opportunities for traffickers to *supply* children to feed the business model. Research consistently demonstrates that orphanage trafficking is more prolific in countries where there is a significant tourist industry, with orphanages generally being set up in the main tourist areas.<sup>369,370</sup> For example, Cambodia has experienced a 75% increase in the number of residential care institutions, despite a significant reduction in the number of orphans.<sup>371</sup> In Uganda, the number of children in institutions increased from just over 1,000 in the late 90s to 55,000 now – despite large decreases in the number of orphans. These orphanages are being built in tourist hotspots.<sup>372</sup>

*“The profits made through volunteer-paid program fees or donations to orphanages from tourists incentivize nefarious orphanage owners to increase revenue by expanding child recruitment operations in order to open more facilities. These orphanages facilitate child trafficking rings by using false promises to recruit children and exploit them to profit from donations. This practice has been well-documented in several countries, including Nepal, Cambodia, and Haiti.”*

*US Department of State Trafficking in Persons Report, 2018.*

In some cases, children's biological parents are not encouraged to visit their children, and they may even be told that they have lost their custodial rights.<sup>373</sup> In some countries, such as Nepal and Cambodia, children's papers are known to be falsified to falsely legitimise their 'orphan' status.<sup>374</sup> There are also examples where children in childcare institutions are further exploited for profit through forced 'cultural' performances for tourists, forced begging, and forced interaction and play with visitors.<sup>375</sup> There is evidence of children being kept in extremely poor conditions and being deliberately malnourished in order to elicit more support in the form of donations and gifts.<sup>376</sup> This points to an inverse business model, where investing less can equate to profiting more. In addition, donated items are known to be sold on at local markets, with one key informant stating that “toys, blankets and gifts to the children were never seen again after those who had donated them had left the orphanage”.<sup>377</sup>

Volunteers also contribute to an onward chain of causation when they finish their placements, as they often continue to fundraise for the orphanage once home.<sup>378</sup>

<sup>369</sup> Punaks, M & Feit, K. (2014). *Op. cit.*

<sup>370</sup> Changing The Way We Care. (forthcoming). *Op. cit.*

<sup>371</sup> ReThink Orphanages. (n.d.). *Op. cit.*

<sup>372</sup> VIVA. (n.d.). Moses. <http://www.viva.org/moses/> [accessed 1 September 2021].

<sup>373</sup> Van Doore, K. (2016). *Op. cit.*

<sup>374</sup> *Ibid.*

<sup>375</sup> Van Doore, K. (2019). *Op. cit.*

<sup>376</sup> ReThink Orphanages. (2019). *Op. cit.*

<sup>377</sup> Lumos. (2019). [Anonymous call for evidence submission from Cambodia]. Unpublished data: on file with Lumos.

<sup>378</sup> Lumos. (2020). [Interview with key informant]. Unpublished data: on file with Lumos.

<sup>368</sup> See the 'Methodology Annex' for more information about the methodology used for the Lumos orphanage voluntourism survey.

## WIDER ISSUES RELATED TO ORPHANAGE VOLUNTOURISM

In many countries where orphanages flourish, regulatory systems and oversight of residential care facilities are inadequate or do not exist.<sup>379</sup> There are often no regulations regarding child protection policies or codes of conduct for staff and volunteers.<sup>380</sup> Throughout the information collected in the Call for Evidence for this report, there are examples of orphanages lacking any policies in relation to child protection and safeguarding, including for vetting volunteers. Some reveal that tourists can arrive unannounced and take a child outside the facility for an unspecified time period.<sup>381</sup>

This creates an environment in which children are extremely vulnerable to sexual exploitation. There is significant evidence of sexual abusers posing as well-intended volunteers in order to gain access to vulnerable children, taking advantage of often unregulated and unsupervised access. Children's rights organisation ECPAT (End Child Prostitution and Trafficking) UK has documented hundreds of cases of sex offenders travelling abroad to abuse children.<sup>382</sup> Some countries report that foreign perpetrators commit extraterritorial commercial child sexual exploitation and abuse in their country by offering to pay for children's school fees or financially support orphanages to gain access to children.<sup>383</sup> If cases are reported, let alone investigated, they rarely result in justice for victims.<sup>384</sup> Evidence collected for the purpose of this report reveals shocking examples of orphanage directors making children available to certain volunteers for sexual exploitation.<sup>385</sup>

The revolving door of tourists and volunteers coming and going from an orphanage can also exacerbate psychological problems in children, akin to attachment disorders.<sup>386</sup> Children need long-term stable carers if they are to develop life-long physical, cognitive and emotional and wellbeing. In the absence of their parents or primary caregivers, children in orphanages may form unnaturally quick bonds with visitors and volunteers, only to be followed by a form of grief when the individual leaves.<sup>387</sup> This cycle of attachment and abandonment repeats with every visitor or volunteer that comes along, and the experience can exacerbate existing attachment disorders and expose each child to repeated patterns of emotional and psychological harm.<sup>388,389</sup>

## ORPHANAGE VOLUNTOURISM AND COVID-19

In a recent study on the impact of the COVID-19 pandemic on children in institutions, it was found that the roles and activities conducted by international volunteers and visitors were largely unnecessary and superfluous to the actual operation of residential care institutions. Their primary use was fundraising. Volunteers and visitors' roles were aimed at increasing emotional attachment between them and children as a means of capitalising on their potential to become longer-term advocates and fundraisers for the institution upon returning home. As such, the majority of institutions involved in the study noted that most functions had not been affected by the loss of volunteers and visitors brought about by the pandemic.<sup>390</sup>

379 Van Doore, K. et al. (2016). *Expert Paper: International Volunteering and Child Sexual Abuse*, Better Care Network  
 380 Better Volunteering Better Care. (2014). *Collected Viewpoints on International Volunteering in Residential Care Centres: Country Focus: Cambodia* p11.  
 381 Lumos. (2019). [Anonymous call for evidence submission from Cambodia]. Unpublished data: on file with Lumos.  
 382 ECPAT UK. (2017). *British Child Abuser Guilty of 45 Crimes Against Thai and UK Children* <https://www.ecpat.org.uk/news/markfrost> [accessed 19 November 2021]  
 383 U.S. Department of State. (2020). *Op. cit.*  
 384 United Nations. (2006). *Violence against Children in Care and Justice Institutions*, p182.  
 385 Lumos. (2019). [Anonymous call for evidence submission from Cambodia]. Unpublished data: on file with Lumos.  
 386 Punaks, M & Felt, K. (2014). *Op. cit.*  
 387 Richter, L.M. & Norman, A. (2010). *Op. Cit.*  
 388 This is illustrated well in the short film by The Umbrella Foundation & Forget Me Not. (2018). *Dear Volunteer*. YouTube. <https://www.youtube.com/watch?v=c6NlnfH3tg> [accessed 1 September 2021].  
 389 It is similarly covered in the campaign by Lumos. (2019). *#HelpingNotHelping*. <https://www.helpingnothelping.org/> [accessed 1 September 2021].  
 390 Nhep, R & Van Doore, K. *Impact of Covid-19 on Privately Run Residential Care Institutions: Insights and Implications for Advocacy and Awareness Raising*. <http://barnhaskollens.se/wp-content/uploads/Impact-of-COVID-19-FULL-FINAL-V7.pdf> [accessed 1 September 2021].



## SPOTLIGHT 3: UNACCOMPANIED MIGRANT AND REFUGEE CHILDREN

Conflict, natural disasters, violence and discrimination force millions of people to flee their homes every year.

Without the protection provided by parents and guardians, children who travel alone or have been separated from their families are at heightened risk of trafficking and exploitation both in transit and on arrival in their destination country.<sup>391,392,393,394</sup> For example, as Europe saw a dramatic increase in the number of refugees and migrants arriving via land and sea in 2015-16, it also saw increases in child trafficking levels.<sup>395</sup>

At the end of 2019, 153,300 refugees globally were reported to be unaccompanied and separated children.<sup>396</sup> But the lack of available data means that this figure is likely to be a significant underestimate, and this number also only includes those who are recognised as refugees. Many children are also at risk because they do not self-identify as children on their arrival in their destination country, and are therefore not afforded the protections to which unaccompanied children are entitled.<sup>397</sup>

Migrant and refugee children can face huge risks. According to IOM, around 1,600 children in migration were reported dead or missing between 2014 and 2018,<sup>398</sup> an average of almost one every day. But these numbers are vastly under representative, as data on missing children is very limited. In Europe alone, Europol has estimated that 10,000 migrant children went missing in 2014-2016, with many feared to have been trafficked.<sup>399,400</sup> The discrepancies between these two numbers demonstrates the lack of data on, and monitoring of, children in migration.

Under the CRC, all children, regardless of their nationality, migration or asylum status, have the right to care and protection.<sup>401</sup> The Council of Europe decreed that unaccompanied migrant and refugee children should receive appropriate care, preferably foster care.<sup>402</sup>

Children arriving without a parent or other caregiver are often placed in reception facilities, which are often institutional in nature,<sup>403</sup> or in some form of alternative care, such as emergency foster care. Recent research has identified an "over-reliance on institutional care" for unaccompanied children,<sup>404</sup> and these settings do little to recognise and support their individual needs.<sup>405</sup> Children often spend long periods of time in institutions, both along their journey and once reaching their destination. However, many children subsequently go missing, with many feared to be trafficked.

Racial discrimination can also lead to migrant and refugee children being targeted for exploitation, including forced labour or sexual servitude. Research suggests that children from sub-Saharan Africa experienced higher rates of victimisation along the central Mediterranean route to Europe than children from other regions.<sup>406,407</sup> Women and girls on the move are especially at risk of trafficking for sexual abuse or other forms of gender-based violence.<sup>408</sup>

On the Colombia-Venezuela border, there are issues with trafficking, prostitution, gender-based violence, and children being abandoned. The migrant flow is so high that the organisations that work to protect children are often overwhelmed.<sup>409,410</sup>

391 UNICEF-INNOCENTI. (n.d.). *Migration and Children*. <https://www.unicef-irc.org/article/606-migration-and-children.html> [accessed 20 July 2021].

392 Lumos. (2019). [Call for evidence submission from the Minderoo Foundation in Australia]. Unpublished data: on file with Lumos.

393 David, F. et al. (2019). *Migrants and their vulnerability to human trafficking, modern slavery and forced labour* [https://publications.iom.int/system/files/pdf/migrants\\_and\\_their\\_vulnerability.pdf](https://publications.iom.int/system/files/pdf/migrants_and_their_vulnerability.pdf) [accessed 1 September 2021].

394 International Organization for Migration (IOM). (2017). *Flow Monitoring Surveys: The Human Trafficking And Other Exploitative Practices Indication Survey*. (2017). [https://www.iom.int/sites/g/files/tmzbd1486/files/dtm/Mediterranean\\_DTM\\_201801.pdf](https://www.iom.int/sites/g/files/tmzbd1486/files/dtm/Mediterranean_DTM_201801.pdf) [accessed 1 September 2020].

395 European Commission. (2016). *Report on the Progress Made in the Fight Against Trafficking in Human Beings* [https://ec.europa.eu/anti-trafficking/first-report-progress-made-fight-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/first-report-progress-made-fight-against-trafficking-human-beings_en) [Accessed 18 November 2020], p9.

396 UNHCR. (2020). *Global Trends: Forced Displacement in 2019*. <https://www.unhcr.org/uk/statistics/unhcrstats/5ee200e37/unhcr-global-trends-2019.html> [accessed 8 October 2020], p9.

397 Lumos. (2019). [Call for evidence submission from ECPAT International in Thailand]. Unpublished data: on file with Lumos.

398 International Organization for Migration (IOM). (2019). *Fatal Journeys Volume 4: Missing Migrant Children*. <https://publications.iom.int/books/fatal-journeys-volume-4-missing-migrant-children> [Accessed 7 December 2020].

399 Townsend, M. (2016). *10,000 refugee children are missing, says Europol*. The Guardian <https://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees> [accessed 8 February 2021]

400 BBC News. (2016). *Migrant crisis: More than 10,000 children 'missing'*. <https://www.bbc.com/news/world-europe-35453589> [accessed 8 February 2021].

401 United Nations Committee on the Rights of the Child (CRC). (2005). *General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin*. (1 September 2005).

402 Council of Europe Parliamentary Assembly. (2011). *Unaccompanied children in Europe: issues of arrival, stay and return*. Doc. 12539. <https://www.refworld.org/docid/4d8b1e02.html> [accessed 22 May 2020].

403 Lumos. (2020). *Rethinking Care: Improving Support for Unaccompanied Migrant, Asylum Seeking and Refugee in the European Union*. <https://www.wearelumos.org/resources/rethinking-care/> [accessed 1 September 2021].

404 *Ibid.*, p45.

405 *Ibid.*, p10.

406 UNICEF & International Organization for Migration (IOM). (2017). *Harrowing Journeys - Children and youth on the move across the Mediterranean Sea*. <https://data.unicef.org/resources/harrowing-journeys/> [accessed 1 September 2021].

407 *"An adolescent boy from sub-Saharan Africa, who has secondary education and travels in a group along the Central Mediterranean route, faces a 73 per cent risk of being exploited. If he came from another region, the risk would drop to 38 per cent"*. From Lumos. (2019). [Call for evidence submission from the Minderoo Foundation in Australia]. Unpublished data: on file with Lumos.

408 European Commission. (2016). *Op. cit.*

409 Lumos. (2021). *In the Name of Care and Protection: Child Institutionalisation in Latin America and the Caribbean*. <https://www.wearelumos.org/resources/name-care-and-protection-child-institutionalisation-latin-america-and-caribbean/> [accessed 20 July 2021].

410 RELAF. (2019). *Poner Fin al Encierro para el cumplimiento del derecho a la vida familiar de niñas y niños*. [Ending Confinement for the fulfilment of the right to family life of children. (accessed 29 November 2019)]. [https://www.relaf.org/biblioteca/Sem\\_RELAF\\_2019\\_Esp.pdf](https://www.relaf.org/biblioteca/Sem_RELAF_2019_Esp.pdf)

## DETENTION OF CHILDREN

Despite the detention of children for immigration reasons being widely condemned, more than 100 countries detain children based on their or their families' immigration status.<sup>411</sup> For example, Mexican immigration authorities apprehended more than 20,000 unaccompanied children from El Salvador, Guatemala, and Honduras in 2015 and more than 14,000 in the first 10 months of 2016; and most of them were detained.<sup>412</sup>

The Global Study on Children Deprived of Liberty notes that some authorities believe that detention facilities can also protect children from trafficking. But, as the report rightly states, "detention is not a form of child protection and in fact can facilitate recruitment by human traffickers".<sup>413</sup> However, alternative options such as family and community-based care with appropriate support services would better meet the needs and best interests of these children and are more effective at preventing trafficking.

## SMUGGLING AND TRAFFICKING

(See also 'What is the difference between smuggling and trafficking?' on page 100)

Legal migration routes are often not possible or require lengthy waits.<sup>414,415</sup> However, barriers to legal migration do not stop the movement of people: instead, they can lead migrants, including children, to rely on smugglers, which can often lead to trafficking and other forms of exploitation.<sup>416</sup>

In some cases, families pay for a smuggler to help their child who is travelling alone; in others, the child leaves home without the knowledge or approval of family, or they become separated from their family at some point along the journey.

It is usually only once the child has travelled some way with the aid of a smuggler that they will realise they have become a victim of trafficking. At this point, they are in a foreign country and often unable to escape easily. Traffickers may physically or sexually abuse their victims, force them into prostitution or labour to pay for their journey, or sell them on to other traffickers.<sup>417</sup>

Children can also be at risk of modern slavery within refugee or Internally Displaced People (IDP) camps, through practices such as child marriage and child labour.<sup>418</sup>

## USE OF PROTECTIVE SHELTERS FOR CHILD VICTIMS OF TRAFFICKING

Some migrant or refugee children are placed in institutional facilities as a protective measure when they are identified as victims of, or at risk of, trafficking. In the Netherlands, for example, these shelters have a capacity of up to 24 children with high levels of supervision and security.<sup>419</sup> However, a 2019 report claimed that, in five years, 60 Vietnamese children have disappeared from these protective shelters.<sup>420</sup> This demonstrates that children are not necessarily protected by the institutional response.

## MIGRANT AND REFUGEE CHILDREN BEING TRAFFICKED OUT OF INSTITUTIONS

In many countries around the world, migrant and refugee children go missing from camps and shelters, which are not closed environments, on a regular basis. They either leave of their own accord, hoping to reach other countries to join family members or to seek perceived better opportunities, or they leave because they have been targeted by traffickers.<sup>421</sup> There is a lack of substantial data on this, as camps and shelters can be chaotic environments without the capacity to monitor the movement of individuals. There is also insufficient action by authorities to trace them, with only four countries in the EU having legal or procedural recourse to investigate disappearances of children.<sup>422</sup>

While it is very difficult to obtain data on the numbers of children who are trafficked or go missing from care around the world, the numbers of migrant and refugee children going missing from care in some European countries indicates a high risk of exposure to trafficking:

- In Italy in 2017, 5,000 unaccompanied children were reported missing, out of 16,000 registered in the country.<sup>423</sup>
- In the Netherlands 1,600 children were reported missing from the Dutch asylum system over 4.5 years until mid-2019.<sup>424</sup>
- In the UK, 15% of all unaccompanied children went missing from care (742 of 4,963) in 2017.<sup>425</sup>

However, it should be noted that while more data may be collected on missing children in Europe than in other regions, this data is still likely to be under-representative of the whole picture.

While institutions are often used to provide protection from traffickers, trafficking often occurs directly from these institutions. The European Commission recognised that "Trafficking networks abuse asylum procedures and use reception centres to identify potential victims."<sup>426</sup>

## MIGRANT AND REFUGEE CHILDREN BEING TRAFFICKED INTO INSTITUTIONS

There are also reports of traffickers exploiting child protection shelters to facilitate the movement of children across borders in an organised way. One report in 2009 outlined how traffickers facilitated children's flights to the UK and then ensured that they would be placed in a facility near Heathrow airport which houses unaccompanied children. Once the children had passed border controls and were placed in the facility, traffickers were able to easily take the children from the house.<sup>427,428</sup> This is an example of trafficking into and then quickly out of an institution, with traffickers using residential care home systems to target unaccompanied children who are often placed in "holding pens".<sup>429</sup>

411 UNICEF. (2018). *UNICEF Working Paper: Alternatives to Immigration Detention of Children*. [https://www.unicef.org/media/58351/file/Alternatives%20to%20immigration%20Detention%20of%20Children%20\(ENG\).pdf](https://www.unicef.org/media/58351/file/Alternatives%20to%20immigration%20Detention%20of%20Children%20(ENG).pdf) [accessed 1 September 2021].

412 Human Rights Watch. (2017). *Mexico Events*. <https://www.hrw.org/world-report/2017/country-chapters/mexico#> [accessed 1 September 2021].

413 Nowak, M. (2019). *United Nations Global Study on Children Deprived of Liberty*, p481. <https://omnibook.com/view/e0623280-5656-42f8-9edf-5872f8f08562> [accessed 8 October 2020].

414 UNICEF & International Organization for Migration (IOM). (2017), p46.David, F, Bryant, K & Joudo Larsen, J 2019, op. cit.

415 David, F. et al. (2019). *Op. cit.*

416 Lumos. (2019). [Call for evidence submission from the Minderoo Foundation in Australia]. Unpublished data: on file with Lumos.

417 UNHCR. (n.d.). *Telling the Real Story*. <https://www.tellingtherealstory.org/en/stories/video/deborahs-story/> [accessed 1 September 2021]

418 Lumos. (2019). [Call for evidence submission from the Minderoo Foundation in Australia]. Unpublished data: on file with Lumos.

419 Lumos Foundation (2020), op. cit. pp. 56-57

420 Einashe, I & Terlingen, S (2019) *Revealed: Vietnamese children vanish from Dutch shelters to be trafficked into Britain*, The Guardian 30 March <https://www.theguardian.com/global-development/2019/mar/30/trafficked-vietnamese-children-at-risk-in-dutch-shelters-sent-to-uk> [accessed 25 September 2020]

421 Lumos. (2019). [Call for evidence submission from RENATE Europe in the Netherlands]. Unpublished data: on file with Lumos.

422 Missing Children Europe (n.d.). *Missing Children in Migration* <https://missingchildreneurope.eu/Missingchildreninmigration> [accessed 26 October 2020]

423 Lumos. (2019). [Call for evidence submission from RENATE Europe in the Netherlands]. Unpublished data: on file with Lumos.

424 Lumos. (2020). *Op. cit.*, pp.56-57.

425 Lumos. (2019). [Call for evidence submission from Missing People in the United Kingdom]. Unpublished data: on file with Lumos.

426 Europol (2020). *European Migrant Smuggling Centre 4th Annual report – 2019*. Cited in: European Commission. (2020). *Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions On A New Pact On Migration And Asylum*. 23/9/2020, [https://ec.europa.eu/info/sites/info/files/1\\_en\\_act\\_part1\\_v7\\_1.pdf](https://ec.europa.eu/info/sites/info/files/1_en_act_part1_v7_1.pdf) [accessed 8 October 2020], p7.

427 Booth, R. (2009). *Revealed: 77 trafficked Chinese children lost by home*. The Guardian. <https://www.theguardian.com/world/2009/may/05/trafficked-chinese-children-crime> [accessed 1 September 2021].

428 UK Home Affairs Committee. (2009). *Update Report (for 2008-09) on Young People at Risk of Trafficking for the Hillingdon Safeguarding Children Board*. <https://publications.parliament.uk/pa/cm200809/cmselect/cmhaff/729/09070708.htm> [accessed 1 September 2021]

429 ECPAT UK. (2014). *Op. cit.* p6.

## PARALLEL SYSTEMS

Along the journey and on arrival in Europe or other destination regions such as the US, migrant and refugee children are often cared for under a separate system to the children who already live in that country.<sup>430</sup> These parallel systems of care can lead to higher levels of institutionalisation and prohibit children's integration into the community.<sup>431</sup> When a potential victim of trafficking is identified and they are a foreign national, sometimes the only option to receive support is through the asylum and migration system, where they are then referred to a specific shelter for unaccompanied migrant children.<sup>432</sup>

## CARE LEAVERS AT INCREASED RISK OF BEING TRAFFICKED

When young refugees turn 18, their access to support services and care often ends abruptly, leaving them exposed to situations of abuse or exploitation.<sup>433</sup> Some are transferred to adult reception centres that lack the same level of support and protection, while others are required to arrange their own housing or end up homeless.<sup>434,435</sup> The lack of integration of migration systems into domestic child protection processes heightens the risk of trafficking for young people when they are discharged from care aged 18, as they are less likely to have links with community support systems.<sup>436</sup>

The difficulty many young migrants and refugees face in securing financial aid or employment also makes them more vulnerable.<sup>437</sup> As is often the case, gender plays a significant role here, and unaccompanied migrant and refugee girls are more likely to be trafficked for the purpose of sexual exploitation.<sup>438</sup> Boys are also at risk, however, and there have been reports in Greece of sexual abuse of unaccompanied refugee boys linked to inadequate care in the accommodation facilities provided for them.<sup>439</sup>

## PREVENTATIVE MEASURES

A number of initiatives have been put in place to prevent the trafficking of migrant and refugee children. One example is *Telling the Real Story*, an initiative by UNHCR which aims to spread awareness of the dangers of the Mediterranean migration routes to Europe by providing first-hand stories from refugees and asylum-seekers who have faced abuse, exploitation and danger along the journey.<sup>440</sup> The stories are promoted through a range of media in refugee camps in Ethiopia, Nigeria, Somalia, and Sudan,<sup>441</sup> with the aim of combatting misinformation spread by traffickers and informing refugees of the dangers prior to onward movement.

430 Lumos. (2020). *Op. cit.*

431 *Ibid.*

432 Lumos. (2019). [Call for evidence submission from "Hope For Children" CRC Policy Center in Cyprus]. Unpublished data: on file with Lumos.

433 European Website on Integration. (2019). *Council of Europe adopts recommendation to support young refugees*. <https://ec.europa.eu/migrant-integration/news/council-of-europe-adopts-recommendation-to-support-young-refugees> [accessed 8 October 2020].

434 Burnett, J. (2019). *Migrant Youth go from a Children's Shelter to Adult Detention on their 18th Birthday*. NPR <https://www.npr.org/2019/02/22/696834560/migrant-youth-go-from-a-childrens-shelter-to-adult-detention-on-their-18th-birth?hpid=hp%3Aimmigration%3Ahomepage%2Fstory&hpid=hp%3Aimmigration%3Ahomepage%2Fstory> [accessed 1 September 2021].

435 European Union Agency for Fundamental Rights. (2019). *Integration of young refugees in the EU: good practices and challenges*. <https://fra.europa.eu/en/publication/2019/integration-young-refugees-eu-good-practices-and-challenges> [accessed 8 October 2020], pp. 59-60.

436 *Ibid.*

437 Lumos. (2019). [Call for evidence submission from "Hope For Children" CRC Policy Center in Cyprus]. Unpublished data: on file with Lumos.

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AT THE END  
OF 2019,  
**153,300 REFUGEES**  
GLOBALLY WERE  
REPORTED TO BE  
UNACCOMPANIED  
AND SEPARATED  
CHILDREN. THIS IS  
LIKELY TO BE  
A SIGNIFICANT  
UNDERESTIMATE.



## REAL LIVES ARE BEING RUINED:

### A FIRST-HAND REFLECTION BY RUTH WACUKA

**Ruth Wacuka is an accomplished speaker, contributing author and advocacy and communications consultant in the orphanage trafficking, youth participation and care reform sectors. She is the founder of Reroot Africa, an organisation working to raise awareness of orphanage trafficking and to improve the lives of vulnerable children. Her work has had a significant impact on care reform in Kenya and across the globe. Ruth is passionate about social justice, culture and identity, and is always proud to call Kenya home.**

Human trafficking has a new face: the face of charity. Modern-day traffickers wear suits and speak a polished language, but human trafficking has no dignity: they prey on families weighed down by the deepest poverty and burdened by the toughest of problems. Traffickers don't care about their victims. They abuse them and violate their basic human rights.

What drives human trafficking? Just like any other business, it comes down to the law of supply and demand. Businesses thrive where a need is identified and can be fulfilled. Many entrepreneurs will tell you that they saw a gap in the market, that there was a need that was not being met.

The orphanage trafficking equation – that balance of supply and demand – is incomplete without voluntourism. Tourists often visit orphanages as part of sightseeing or volunteer projects. For some students, volunteering is even part of their education. Visiting an orphanage involves playing games, holding babies, teaching or bathing children. Not all volunteers do these activities in all orphanages of course, but in the orphanage in Kenya where I lived, they did.

The day before my orphanage received visitors was like a festival. In an orphanage that doubled as a school, classes were suspended as we prepared. The children were excited, and everyone tried to guess who was coming. You see, we knew most of the groups, especially those from Australia and the United States. We even knew what they would do when they arrived and what gifts they would bring. We sang religious songs especially reserved for these occasions, and we recited the most sentimental poems. "What gifted, beautiful and precious orphaned babies," volunteers would say while they made donations. There would be a speech from the management before everyone dispersed. Sometimes children would be driven off, maybe to a hotel in the neighbourhood. It was a time for the teachers to mark assignments, for the house mothers to rest.

## VOLUNTOURISM DRIVES ORPHANAGE TRAFFICKING, WHICH IN TURN FUELS THE COMMODIFICATION OF CHILDREN FOR THE PURPOSE OF ABUSE AND EXPLOITATION.

An observer might take this scene at face value: happy faces equal happy people. Most of the children felt they should build up close relationships – "friendships" – with the tourists from the volunteer groups. But how many parents would allow their children to spend this time unsupervised with a stranger? My heart goes cold for the children whose stories have yet to be told. If you looked closer, you could see children in tattered clothes while the director ate in fancy restaurants. The children's conditions remained poor, but while our needs were not met, the orphanage kept taking in new children and collecting more funds.

Tourists usually believe they're doing good; that by visiting and donating to orphanages, they're helping children get the best care. But many orphanages are less concerned with caring for children than they are with the revenue the institution can generate. And families are deceived. During my time at the orphanage, some peers and I spent the night in a lodge where the owners had children in the orphanage themselves. The father believed he was sending his children to a boarding school.

If there is no revenue, there is no economic incentive to recruit children away from their families. Voluntourism drives orphanage trafficking, which in turn fuels the commodification of children for the purposes of abuse and exploitation. Children are often seen not as human beings with rights, but as vehicles of charity: money-making machines. The demand for volunteering equals the demand for children. Beyond the statistics, there are real people being deprived of their families and communities: real lives are being ruined.

Most people with care experience continue to struggle with a lack of social contacts, mentors, friendships, identity and a sense of belonging. Yet they are often asked: "Didn't you make friends when you were in the orphanage? Haven't you made friends since you left?" This lack is not due to an absence of people while growing up, but instead due to the impermanence of the thousand footprints passing through their lives. The skill of making social bonds is one you learn in a community, not in an orphanage.

Some may argue that the children got what they needed: food, clothing, education. But at what price? What is their quality of life? And what other, better options are there? The resources ploughed into orphanage tourism are fuelling child abuse and exploitation. Imagine what could be achieved if they were redirected to family-based care instead.

Reroot Africa, which grew out of my own experience, works with volunteer groups to make sure they have enough information to decide where their money and efforts will go. We wish we could do even more. Imagine what we could do if we all joined forces – the government, the church, tourism agencies, policy makers, care reform advocates, prospective travellers and volunteers – and worked together to improve the lives of vulnerable children.

# INSTITUTION-RELATED TRAFFICKING WILL CONTINUE IN THE ABSENCE OF SPECIFIC LAWS, POLICIES AND TARGETED PROGRAMMES TO ADDRESS IT.

## CONCLUSION

Despite improvements to care systems in many parts of the world, children are still being placed in institutions – a practice that is often inextricably linked to continued support for orphanages.

The growing awareness that many orphanages are run as profit-making enterprises is underpinned by the evidence in this report: year after year, vast sums of money and large numbers of volunteers are poured into orphanages around the world, often without any oversight. Not only does this create a market that incentivises the separation of families to increase the number of children living in orphanages, but these children are also at significant risk of exploitation and abuse. This can occur at the hands of criminals who target the facilities as well as the staff, volunteers, visitors and other children.

Once placed in residential institutions, children are left extremely vulnerable to onward trafficking. This can be the case when criminals target institutions that often do not provide a safe and secure environment for children.

To make matters worse, child victims of trafficking are often placed in shelters as a ‘protection measure’ and once they have ‘aged out’ of the system, they are very vulnerable to trafficking and exploitation in the wider community.

All of these cycles of institution-related trafficking are fuelled by underlying risk factors, including shortcomings in child protection systems, lack of accountability structures in institutional care, insufficient legal recognition of the phenomenon and misdirected financial support to orphanages around the world.

COVID-19 threatens the care and well-being of millions of children worldwide who are at risk of family separation due to the death of their parents or caregivers, and who suffer great economic and social stress due to increasing poverty. This in turn could lead to an increase in institution-related trafficking as criminals seek to take advantage of increasingly vulnerable families and communities and potentially to an increase in international funding for orphanages. All those professionally or personally involved with vulnerable children worldwide should ensure that their health, education and social protection responses to COVID-19 strengthen families, increase their resilience and promote their protection and well-being. Countries should realise that there is an increasing urgency to legally recognise the trafficking of children in orphanages.

Institution-related trafficking will continue in the absence of specific laws, policies and targeted programmes to address it. As awareness grows of the vulnerabilities of children in institutions to exploitation – and of the intersections between the two problems – it is critical that laws, policies and practices evolve to address the growing connections.

We hope that the Recommendations listed will support this process.



# RECOMMENDATIONS



## FOR GOVERNMENTS

### IMPLEMENT CARE REFORM:

- **Ensure family and community-based care is prioritised in all policies relating to the care and protection of children.** This is key to enabling the safe, nurturing, and healthy development of children.
- **Prioritise support for families.** Ensure that services and programmes support and strengthen vulnerable families to care for their children. Develop and strengthen family support mechanisms, social work interventions, employment schemes, immigration policies and broader policy measures to keep families together.
- **Ensure availability of family and community-based alternative care for those who need it.** Children who cannot live with their birth family should be placed in high-quality family and community-based care. Ensure that all placements are based on identified needs and are in the best interests of the child.
- **Assess and address spending on institutional care as part of a process of care reform.** Commit to ringfencing those resources so that they can be redirected towards a range of family and community-based care services.
- **Engage care-experienced children and young people in care reform.** Ensure they have opportunities to participate fully at all stages of the process.

### MODEL LAW:

- **Adopt a law on institution-related child trafficking for the purpose of financial exploitation.** Criminalise the act of trafficking children into orphanages and other residential childcare institutions, and the ownership, directorship and management of such exploitative institutions, including liability for those who may otherwise knowingly profit from them. Require compensation for victims. This can be achieved by adopting the Model Law contained in this report.

### DATA COLLECTION AND MONITORING:

- **Improve data collection and disaggregation so that all children are represented in systems that monitor the number and profile of children in institutional care.** Improved monitoring systems are essential to accurately map children's institutions, identify existing needs, ensure safeguarding, and improve planning for care reform.
- **Ensure institution-related trafficking is recorded and included in national referral mechanisms** or equivalent mechanisms for the identification of child victims of trafficking.
- **Ensure that there are effective regulations, control and inspection of all residential care providers regardless of their nature (public or private).** This should include mandating that child protection and safeguarding policies are implemented. Everyone who has contact with children, including staff, volunteers and visitors, should understand the policy and have restricted access to the children.
- **Implement systems that monitor and regulate funding.** Ensure oversight of funds that flow into orphanages to ensure accountability.

### ORPHANAGE TOURISM:

- **All Governments should develop a national policy that outlaws the practice of unskilled volunteering in children's institutions.** In recognition of the harms of orphanage volunteering and its links to child exploitation, adopt a policy that prevents national volunteering agencies and tourism companies from providing such experiences to citizens.<sup>442</sup>
- **All Governments should issue travel advice for citizens warning against orphanage volunteering and visits.** Ensure that the public is aware of the national stance against orphanage tourism.



## FOR LAW ENFORCEMENT, CHILD PROTECTION ACTORS AND CARE PROVIDERS

### SPECIALIST SUPPORT FOR CHILDREN IN CARE

- **Ensure child-centric, integrated, individualised and trauma-informed support for suspected and identified child victims of trafficking.** A 'best interests' determination of individual needs is essential, as well as prioritising family-based care.
- **Provide children in residential care and care leavers with appropriate information and advice to equip them with the knowledge to stay safe.** This should cover themes of exploitation risks, including institution-related trafficking.
- **Provide care leavers with vocational training and work opportunities.** As part of an approach to prevent the risk of (re)trafficking, care leavers should be empowered and adequately prepared for life beyond institutional care.
- **Inform all children about their right to issue complaints and report abuse.** Develop accessible, confidential and child-friendly reporting procedures in relevant languages.

### TRAINING FOR PROFESSIONALS:

- **Provide accessible and regular training for child protection actors.** This should include a focus on the specific risks of child trafficking and exploitation that are linked to these types of care arrangements.
- **Issue practical guidance to care providers.** This should highlight the risk of child exploitation to children deprived of parental care, including how to prevent, identify and respond to instances of trafficking.

<sup>442</sup> The International Forum for Volunteering in Development have produced a Global Standard for good practice in international volunteering, including specific indicators on the harms of orphanage volunteering: <https://forum-ids.org/download-the-global-standard/> [accessed 1 September 2021].



## FOR VOLUNTEERS, TOURISTS AND AGENCIES

- **Volunteering agencies and tourism companies should stop offering trips to children's institutions.** Those that currently offer such trips should consider organising ethical volunteering trips as an alternative. Wherever possible, volunteering placements should directly or indirectly support families and communities to remain together. Volunteering agencies and tourism companies should consider using their platforms to play an active role in raising awareness about the harm caused by volunteering in orphanages, highlighting the separation of families and the exploitation of children that it facilitates.
- **Volunteers should not volunteer in children's institutions.** Orphanage volunteering is harmful to children and fuels a system that drives family separation.
- **Volunteers should reflect on the skills they have and how they could be used most effectively to support local needs.** Volunteers should approach their placement with a 'learning mindset'; remaining open to learning from the people they are working with, their culture and their unique contexts.
- **Volunteers should ask the agency informed questions and only accept trips where they can ensure their participation is ethical.** This will create a market demand for a more ethical volunteering industry.
- **Anyone currently volunteering in an orphanage who is concerned about harmful practices to children should contact the relevant local authorities as soon as possible.** Volunteers should consider ending the volunteer placement early to minimise risk to themselves and others.
- **Private companies, universities and other organisations should ensure that they do not promote or engage with orphanage volunteering trips or visits.** This should include an assessment of their Corporate Social Responsibility policies (or equivalent) to ensure a focus on family and community strengthening as opposed to funding children's institutions.



## FOR PRIVATE FUNDERS

- **Private funders should implement policies and guidelines clearly stating that they do not support the institutionalisation of children and underlining their commitment to care reform.** In practice, these policies should ensure that funders do not support children's institutions either directly or indirectly. This includes one-off donations as well as non-financial support, such as in-kind contributions, volunteering or mission trips by members. Funders' policies and regulations should restrict the use of funds for renovating and building institutions. Moreover, guidelines should include plans to redirect current funding towards family and community-based care. Donors should ensure that guidelines are enforced and that employees do not volunteer or invest in children's institutions.
- **Private donors should ensure that the projects they support are not engaged in child trafficking.** Private donors are strongly encouraged to read the Model Law and its detailed Commentary in order to understand the risks involved for children and to put in place due diligence measures to ensure they are not supporting the trafficking of children into childcare institutions.
- **Private donors should ensure that the projects they support link into a long-term vision and strategy of sustainable care transformation.** As care reform is not a quick process, a longer-term commitment to the redirection of funds is essential.
- **Funders with an established relationship with an institution(s) should ensure a phased approach to ceasing support.** This should minimise the risk of placing the remaining children in an even more damaging situation and support a process of reform. Loss of funding can lead to poor nutrition, reduced staffing, loss of school fees, and more. Immediately withdrawing support to institutions is likely to harm children in the short term. Private funders should instead develop a divestment strategy to phase out support responsibly and redirect it based on an understanding of needs.

# APPENDIX 1

## DEFINITIONS

For definitions and a discussion of core concepts not listed in this Appendix, please see Chapter 1 on Core Concepts (page 33).

### What is a child protection system?

A child protection system is the network of services that exists to protect children who are suffering, or are likely to suffer, harm as a result of violence, abuse, neglect or exploitation.

### What is residential care?

Residential care can be described as care provided in any non-family-based group setting. While institutions are not an appropriate form of care, high-quality residential care can be an important part of the continuum of care: this is ideally provided in small groups, within the community, with a highly trained workforce who support the children and, wherever possible, maintain strong relationships with the birth and extended family.

### What is family and community-based care?

Family-based care refers to care for a child in a family, as opposed to in institutional or residential care. This includes kinship care (where children are looked after by extended family members) and foster care. Community-based care refers to the spectrum of services that enable individuals to live in the community and, in the case of children, to grow up in a family environment. It encompasses mainstream services, such as housing, healthcare, education, employment, culture and leisure, which are accessible to everyone regardless of disability or their required level of support. It also refers to specialised services, such as personal assistance for people with disabilities, respite care and others.

### What is care reform?

Care reform involves the transformation of services to ensure that children can live with their families, or in family-based or family-like care in the community. It typically involves strengthening child protection and care systems and ensuring universal access to education and healthcare. Fundamentally, it is about inclusion – making sure that the right support services are in place to enable all children to live with their families, in their communities.

### What is child abuse?

Child abuse includes all types of physical, emotional and sexual abuse, as well as neglect by those with authority and power over children.<sup>443</sup> Although in some cases, abuse may not be exploitative in itself,<sup>444</sup> the concept of abuse appears in the Palermo Protocol definition in two of the stated 'means' by which traffickers gain control of their victims, namely through an 'abuse of power' or an 'abuse of a position of vulnerability'.<sup>445</sup>

<sup>443</sup> World Health Organization et al. (2017). *Inspire: Sept stratégies pour mettre fin à la violence à l'encontre des enfants [Inspire: Seven strategies to end violence against children]*. <https://apps.who.int/iris/bitstream/handle/10665/254627/9789242565355-fre.pdf> [accessed 26 May 2020], p14.

<sup>444</sup> See, for example, United Nations Office on Drugs and Crime (UNODC). (2012). *UNODC Guidance Note on 'abuse of a position of vulnerability' as a means of trafficking in persons in Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*. [https://www.unodc.org/documents/human-trafficking/2012/UNODC\\_2012\\_Guidance\\_Note\\_-\\_Abuse\\_of\\_a\\_Position\\_of\\_Vulnerability\\_E.pdf](https://www.unodc.org/documents/human-trafficking/2012/UNODC_2012_Guidance_Note_-_Abuse_of_a_Position_of_Vulnerability_E.pdf) [accessed 1 September 2021].

<sup>445</sup> Child trafficking has long been described by experts as child abuse. See for example the position taken by the NSPCC. (2021). *Protecting children from trafficking and modern slavery*. <https://learning.nspcc.org.uk/child-abuse-and-neglect/child-trafficking-and-modern-slavery#:~:text=Effects%20on%20children,sexual%20abuse%20and%20exploitation> [accessed 1 September 2021].

### What are the main differences between human trafficking and human smuggling?

There are several key differences between human trafficking and human smuggling.

Firstly, in cases of human trafficking, it is the trafficker's intention to exploit the victim for one or more of the intended purposes: slavery, servitude, forced labour, sexual exploitation, removal of organs etc. Conversely, the aim of smuggling is to assist a person who wishes to be smuggled (ie, illegally enter) into a foreign country of their choice. This activity is not underpinned by the smuggler wanting to exploit the person for another purpose. Secondly, human trafficking can be international or domestic, whereas in cases of human smuggling an international border is always crossed.

Finally, in human smuggling cases, the smuggled person has consented to their smuggling. In cases of human trafficking, the adult victim's 'consent' is irrelevant where one of the 'means' was used by the trafficker (deception, coercion or abuse of a position of vulnerability). Importantly, children can never consent to be trafficked, regardless of the 'means'.

It is important to note that in some cases, what begins as a smuggling arrangement may end up in a trafficking scenario if the person is exploited along the journey or at their destination, for example, for their labour or for sexual exploitation.<sup>446</sup>

### What is exploitation?

According to an explanation of the definition of exploitation cited by the United Nations Office on Drugs and Crime (UNODC), "to exploit a person is to use a weakness in order to gain substantial control over the person's life or labour."<sup>447</sup>

The Palermo Protocol also sets out what is included under the 'purpose of exploitation':

*Exploitation shall include, at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.*<sup>448</sup>

The Palermo Protocol requires a 'minimum' list of exploitative purposes to be included in a country's trafficking laws, such as slavery, servitude, forced labour and sexual exploitation – ie, it is not a closed or final list. In practical terms, this means that countries may also include additional, new or emerging forms of exploitation laws in their trafficking laws in order to criminalise ongoing forms of human trafficking.

### What is modern slavery?

Modern slavery is the severe exploitation of people for personal or commercial gain. Modern slavery takes many forms. Some common forms are human trafficking, forced labour, debt bondage and forced marriage.

### What is voluntourism and orphanage voluntourism?

Voluntourism is defined as "a type of holiday in which you work as a volunteer (= without being paid) to help people in the places you visit."<sup>449</sup> In the context of 'orphanages' and other types of institutional care, voluntourism consists of a spectrum of activities that are related to the support of institutions through financial or material resources, including volunteering one's time.<sup>450</sup>

### What is meant by unaccompanied children?

Unaccompanied children are children under the age of 18 who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.<sup>451</sup>

## APPENDIX 2

### MODEL LAW ON INSTITUTIONAL CHILDCARE TRAFFICKING FOR THE PURPOSE OF FINANCIAL EXPLOITATION

#### Professor Parosha Chandran

For LUMOS

### MODEL LAW AND COMMENTARY TO CRIMINALISE THE PRACTICE OF INSTITUTIONAL CHILDCARE TRAFFICKING AND 'ORPHANAGE TRAFFICKING' IN THE WORLD TODAY

#### PREAMBLE

1. I am Professor Parosha Chandran, Professor of Practice in Modern Slavery Law at King's College London and Barrister at One Pump Court Chambers in London.
2. I have been advising Lumos on the development of a set of model legal clauses to criminalise the human trafficking of children into orphanages and other residential childcare institutions.
3. In summary, in producing this work I have also advised on the need for aggravated offences that highlight the myriad of severe forms of harm that children trafficked for financial exploitation into residential care home institutions are subjected to and I have advised on laws to criminalise the ownership, directorship and management of exploitative residential childcare institutions which are engaged in such practices. I have also advised in this Model Law on the introduction of criminal liability for the financial criminal businesses themselves, as well as for the persons who run them and I have suggested appropriate sentences for natural persons (human perpetrators) as well as for businesses (legal persons). I have introduced a novel feature of critical importance for victims, namely the requirement of an order for compensation to the victim(s) to be made in every case where a perpetrator is convicted by the courts.
4. To come to my brief, I was asked by Lumos to undertake the following work:
  - To provide a legal opinion on the concept of 'orphanage trafficking' and propose a definition that can be operationalised in practice;
  - To propose a 'model legal clause' for tackling 'orphanage trafficking' from both a criminal and supply chains perspective in order to operationalise the proposed definition.
5. To assist my research and understanding of the issues I convened two Expert Group Roundtable Meetings in July and September 2019, jointly hosted by King's College London and Lumos. The experts in attendance comprised civil society actors, experts from international and national organisations and State representatives. I also conducted three expert meetings with Lumos' own experts in 2020-2021. I am grateful to the experts and participants who all warmly engaged in sharing their knowledge, insights and a wealth of contributions with me.
6. I also conducted detailed research into the incidence of 'orphanage trafficking' myself.
7. Essentially, what has been described as 'orphanage trafficking' is **the recruitment of children, who may or may not be orphans, and their transfer into residential childcare institutions, including but not limited to orphanages, for the dominant purpose of the financial exploitation and gain of those who own or run the institutions.**
8. Taking into account my research and the legal lacunae I have discovered concerning the lack of express laws to combat this specific type of crime, I consider that the optimum assistance I can provide to Lumos is to draft a series of legislative provisions that can be used as a blueprint "Model Law".
9. It is intended that this Model Law, and its detailed Commentary, will be able to initiate discussions, including between civil society organisations and States, to carefully consider whether the criminal laws in affected States are indeed fit for purpose when it comes to the need to combat the spectrum of criminal conduct that is directly associated with institutional childcare trafficking. **Where they are not, new laws should be introduced.**
10. For donors, funders and volunteers, a careful reading of the Model Law and Commentary will also enable them to be aware of the grave risks and harm faced by children in residential care institutions that are involved in trafficking children for financial exploitation. This knowledge will – it is hoped and expected – drive forward the introduction of **due diligence processes** by all donors, funders and volunteers to ensure that their support is not going towards the profiteering of criminal traffickers.

446 See, for example, this guidance by UNHCR. (n.d.). *Trafficking in persons*. <https://www.unhcr.org/uk/human-trafficking.html#:~:text=Human%20trafficking%20is%20involuntary%20and,forced%20labour%20or%20sex%20work> [accessed 1 September 2021].

447 Ted Honderich (Ed.). (2005). *The Oxford Companion to Philosophy*. Cited in: United Nations Office on Drugs and Crime. (2015). *The Concept of Exploitation in the Trafficking in Persons Protocol*. [https://www.unodc.org/documents/congress/background-information/Human\\_Trafficking/UNODC\\_2015\\_Issue\\_Paper\\_Exploitation.pdf](https://www.unodc.org/documents/congress/background-information/Human_Trafficking/UNODC_2015_Issue_Paper_Exploitation.pdf) [accessed 4 June 2020], p21.

448 United Nations General Assembly (UNGA). (2000). *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, Article 3(a).

449 Cambridge Dictionary. (n.d.). *Voluntourism*. <https://dictionary.cambridge.org/dictionary/english/voluntourism> [accessed 4 June 2020].

450 ReThink Orphanages. (2019). *Op. cit.*

451 Interagency Working Group on Unaccompanied and Separated Children. (2017). *Field Handbook on Unaccompanied and Separated Children*. <https://www.iom.int/sites/default/files/HANDBOOK-WEB-2017-0322.pdf> [accessed 4 June 2021].

11. The aim of this Model Law is to confront the existence and operation of institutional childcare residences, including orphanages, whose operating model is built on a dominant purpose or motive of obtaining and perpetuating profits from the recruitment and exploitation of vulnerable children. This exploitative practice is, as Lumos' research illustrates, a practice that takes place in many countries across the world.
12. The Model Law's aim is also to draw to the crucial attention of funders, donors and volunteers associated with supporting residential childcare institutions to the stark fact that in the absence of very careful due diligence being undertaken by them in terms of carefully investigating the credibility of any existing or proposed institutional childcare residence before contributing their charitable funding or practical volunteering, they may be unwittingly contributing to the trafficking of children into such institutions. The research, including by Lumos, clearly shows that financially or otherwise contributing towards residential care institutions for children comes in some cases with a risk of assisting human traffickers in the commission of child trafficking and the exploitation and harm of vulnerable children. My advice is that in order for the risk to be negated the residential childcare institution must be carefully checked by the potential funder, donor or volunteer before determining that it is a safe place of residence for children.
13. While only those intentionally involved in the commission of a crime are subject to liability under this Model Law, which the donors, funders and volunteers just described are not, it does seek to introduce criminal liability, along traditional lines of anti-trafficking law, for all those knowingly involved in the chain of command and exploitation of children, from the recruitment to receipt and harbouring of the child, in order to ensure that all persons who have knowingly participated in the transactions engaged in bringing a child into a situation of financial exploitation in an orphanage or other residential care institution are punished for their participation.
14. My research indicates that in some cases the institutions will have been set up solely as commercial fronts, under the guise of childcare facilities, to use the presence of children in order to receive and perpetuate funds and profits. In other cases, existing childcare institutions which provide some care for children, may primarily operate for the dominant purpose of achieving profits that are not reinvested in activities relating to the reasonable care or welfare of the child.
15. To that end what we are addressing are crimes relating to the **financial exploitation of children deprived of family care**. The financial exploitation takes place in residential childcare institutions and at the hands of individuals who are intent on primarily using the child's presence in the institution for financial profit, rather than to provide care. This engages the financial exploitation of the child. The profit may be obtained directly through the receipt of sums of money or via other material benefit or gain.
16. In many instances, this form of criminality is conducted by an organised criminal network, which is defined in international law as involving a group comprising three or more persons acting in concert, in this case with the aim of financially exploiting the child.
17. Hundreds of thousands of children live in orphanages in countries across the world. It is estimated that in some countries more than 80% are not orphans. Well-intentioned donors, visitors and volunteers, often from the Global North, support orphanages every year in developing countries and countries hit by environmental disasters where the growth of orphanages quickly proliferates as a direct consequence of world humanitarian interest and a media spotlight.
18. **Not all of these institutions are motivated by criminal intentions, but some are and this Model Law and Commentary is directed at those which are.**
19. Donors' support takes the form of various financial streams, including cash transactions or gifts and in-kind donations such as voluntary work, for example, which often makes it difficult to track the money and its value. The provision of such funding, taken with the desire of well-intentioned, unsuspecting people to offer help to the plight of 'orphans' or other vulnerable children, who are presented as needing urgent or ongoing crucial care, has been driving up the establishment of fake orphanages that are created or operated principally with the aim of profit, rather than the care and best interests of the child, in mind.
20. As a result, recruiting children, who may or may not be orphans, into such orphanages and other residential childcare institutions and harbouring or maintaining them there in such a manner that facilitates the ongoing receipt of funding, donations and voluntary help has become a big criminal business in a number of countries. It is, however, behaviour that is characterised by impunity, because this type of child trafficking involving residential childcare institutions is activity often untouched by the criminal laws – or the enforcement of anti-trafficking laws – in the vast majority of affected States.
21. Indeed at the present time no country in the world has expressly included the recruitment and trafficking of children into orphanages or other residential childcare institutions as constituting a form of exploitation in their criminal or anti-trafficking laws.
22. Such criminal conduct is not limited to orphanages, however. The recruitment of vulnerable children for the primary purpose of financial exploitation extends to other residential institutions too, including those which present themselves in some countries as boarding schools.
23. Criminal organisations are hence profiteering from abusing children in this way and children who are taken and kept in the orphanages and other residential institutions by criminals are at risk of being exposed to grave and multiple forms of harm while their presence there and their presentation as being children in need are being used as devices to camouflage burgeoning criminal enterprises.
24. This criminality is often made even easier in countries where unregulated orphanages and residential care homes operate with lack of oversight. For example, Lumos' work in Haiti<sup>[1]</sup> shows millions of dollars going into the orphanage system in Haiti, where 85% of orphanages are unregistered and there is an absence of oversight or accountability in terms of the spending.
25. From discussions with experts, it is clear to me that there are also wider safeguarding risks for children who have been separated from their families by being placed in an orphanage or other residential childcare institution which is being run for the dominant purpose of the financial exploitation of the child. These include the risk of being subjected to forced labour and other forms of harmful exploitation while in or under the control of those running the institutions, for example, to produce gifts for visitors or to build premises in the institution's grounds, being groomed to perform dance or singing shows for visitors and donors, being subjected to sexual exploitation or being taken to towns and cities where they are forced to beg. Moreover, the children's own names and identities are often discarded by those in charge of such institutions, who falsely replace their names on fake birth certificates, or falsely declare them to be orphans. The children may be forced and instructed to lie to donors and volunteers, to give false names and say they are orphans when they are not. They may be refused access to their families. They may be required to train and perform for funding 'shows' to attract donations, and experts have also advised there is a risk of the children being exposed to developing attachment disorders arising from emotional bonds created with temporary visitors, including visiting donors or the usually untrained but very caring and enthusiastic volunteers. In some cases children have also been beaten or threatened by those who are in control of the institutions, the children have been denied adequate food, medical assistance and education or have been continuously deprived of any safe living conditions. In other cases children may be trafficked for additional forms of exploitation within or from the childcare institution, such as for their forced labour to build premises in neighbouring areas or trafficked for child sexual exploitation.
26. It is not yet known exactly what profits are made from this grave form of abusive child trafficking that takes place under the guise of residential childcare, nor what financial flows link the illicit gains derived from 'orphanage trafficking'<sup>[2]</sup> with money arising from other forms of organised crime, but it can be reasonably assumed there are many. Where criminals operate with impunity it is likely that money laundering involving diverse criminal enterprises may also be taking place.
27. In the absence of any specific criminal exploitation clause listing financial exploitation as a prohibited form of exploitation in any country's trafficking laws, each perpetrator involved in the chain of trafficking the child into and within a childcare institution operates liability-free and is able to continue their criminality with impunity, at the expense of the health and welfare of children under their control, and without fear of any interference, criminal investigation or prosecution.
28. The international legal definition of human trafficking, while hugely impactful in cases where the intended exploitation of a child is for established and well-recognised forms of harm as slavery, servitude, forced labour, sexual exploitation or the removal of organs, does not expressly cover all the crimes being committed against children in the matrix of financial exploitation that has been described above.
29. Ideally States should therefore consider introducing into their laws on trafficking or modern slavery "*the financial exploitation of children in childcare institutions including orphanages*" into their lists of prohibited exploitation. In the absence of an express statement in the law on this, the types of criminality that we are focussing on here may be missed.
30. The criminal law must be clear, to the perpetrators, to the victims and those who support them, to law enforcement, the lawyers and the courts.
- 31. Legislating to better protect children from all forms of exploitation must be an imperative of all States in the modern-day world.**
32. So, the starting point in a model law will be to show how it can address part of the spectrum of criminality involved in the exploitation of children and, in my opinion, a model law will therefore need to introduce a child trafficking provision to cover the crimes of those who recruit, transport, transfer, harbour or receive a child into such childcare institutions for the dominant purpose of financial gain.
33. The next step is to see how to draft effective modern slavery provisions which effectively criminalise and punish all those who own, manage and profit from such illicit business enterprises, as well as introducing additional and aggravated offences to cover the buying or selling of children into the residential institutions or subjecting the children to any one or more forms of additional harm that I have earlier described.
34. There is also a need to criminalise the actions of the childcare institutions themselves, as commercial entities, so that they can also be held to account and made subject to appropriate sanctions, such as closure orders and the confiscation of assets including other deterrent penalties such as the imposition of significant fines and disqualification from being involved in future enterprises.
35. Linked to strict penalties being applicable to perpetrators there must however also be a clear understanding reflected in the law of the critical need for compensation for all victims of these severe forms of child trafficking. The right to compensation is too often overlooked by States' criminal laws but in my opinion is a necessary feature under a Model Law to strengthen respect for a child's right to be awarded remedies for the trafficking, harm and pain they have suffered.
36. Together, the framework of the provisions such as I have suggested may effectively confront the whole spectrum of the criminality that we are currently faced with, together with a victim's need for reparation.
37. The set of legal clauses I have drafted therefore suggests a comprehensive approach to criminalising this increasingly prominent, preponderant and dangerous form of child trafficking and modern slavery.
38. The clauses also include key definitions and corporate liability together with suggested appropriate penalties, such as compulsory imprisonment and the closing down of institutions, with higher levels of punishment levied for the aggravated, more harmful, forms of the offence.
39. In terms of the detailed list of aggravated crimes, this list has a dual feature as not only does it identify cases giving rise to factors increasing the harm done to children, and for which punishment for the perpetrators should be stricter, but the list can also be taken as a way to highlight the need for legitimate orphanages, namely those that are not engaged in the financial exploitation of a child, to turn their minds to operating their premises in line with very careful welfare considerations for vulnerable children. This care must be in accordance with international minimum standards of care towards children in their custodianship, including in line with the UN Guidelines for the Alternative Care of Children.<sup>[3]</sup> The list can also be considered as being a critical reason for States to regulate all orphanages on their territories.

### SUMMARISED EXISTING LEGAL FRAMEWORK:

40. The UN Palermo Protocol on Trafficking in Persons 2000 requires States to criminalise trafficking and provides the internationally agreed definition of human trafficking, including child trafficking, which comprises the recruitment, transfer, transportation, harbouring or receipt of a child for the purpose of exploitation.
41. The UN Convention on the Rights of the Child 1989, Article 35, requires State Parties to "*take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form*".
42. Article 32 of the CRC recognises the child's right "*to be protected from economic exploitation*" and requires States to "*provide for appropriate penalties or other sanctions to ensure the effective enforcement of [this] article*".
43. The International Labour Organization (ILO) Worst Forms of Child Labour Convention 1999, Article 3, requires States to prohibit and eliminate the worst forms of child labour as a matter of urgency, including all forms of slavery or practices similar to slavery, trafficking, debt bondage, serfdom, forced or compulsory labour, and prostitution and requires States "*to identify and reach out to children at special risk*", under Article 7(d).
44. UN Guidelines for the Alternative Care of Children confirms that "*it is the role of the State, through its competent authorities, to ensure the supervision of the safety, well-being and development of any child placed in alternative care*" (para 5) and that the provision of alternative care "*should never be undertaken with a prime purpose of furthering the...economic goals of the providers.*" (para 20).

### SUMMARY OF THE AIMS OF THE MODEL LAW

45. The aim of this Model Law is to highlight, confront and support the introduction or amendment of laws that criminalise the actions of human traffickers who recruit and accommodate ('harbour') children in orphanages and other institutional childcare residences for the purpose of financial exploitation.

46. By deceiving parents into giving up their children into institutionalised care and by deceiving donors, funders and volunteers to provide their financial support and in-kind donations in the misled belief that they will be supporting or improving the welfare of vulnerable children, human traffickers act efficiently in achieving sometimes vast profits with impunity because in most cases the criminal laws of the countries in which they operate, and of which they are nationals, do not specifically or adequately address the particular type of criminality that we are seeing in these cases, namely the trafficking of children into childcare institutions for the purpose of financial exploitation.
47. To that end the Model Law introduces a specific definition of trafficking a child into institutionalised childcare, by directly linking it with financial exploitation, and this definition can either be introduced into a State's laws or can be considered as an interpretative tool by States to introduce new interpretative policies if they consider the wording of their legislation is adequate, even though its meaning in the context of the criminality described here may not yet have been properly considered and discussed within that State.
48. This Model Law does not intend or seek to criminalise individuals who legitimately run institutional childcare residences aimed at providing good quality welfare, care and support to orphans and other vulnerable children in need and which seek to act in the child's best interests. Nor does it intend to criminalise parents who unwittingly place their children in the hands of criminals, or to criminalise donors, funders or volunteers who unwittingly support such criminal childcare institutions and enterprises.
49. It does however introduce for discussion an urgent need for States to introduce robust and effective criminal laws in affected countries to criminalise the actions of human traffickers and their networks for recruiting children into residential care institutions where the children are primarily used for exploitation by way of enabling child traffickers to achieve financial profit, benefit and gain.
50. In attempting to address the need for new or amending legislation to combat this type of child trafficking, this model also includes a suggestion to introduce corporate criminal liability for these crimes, so that in addition to States being able to prosecute individuals (the natural person) for trafficking children into childcare institutions for financial exploitation, States can also prosecute the business and legal entity that is involved too (the legal person), thereby enabling both the human perpetrator and the business entity involved to be convicted and adequately punished. I have suggested a lengthy term of imprisonment for the natural person criminal and have suggested tough sanctions for the convicted business entity, such as closure orders, disqualification and substantial fines. I have specifically advised against allowing the punishment of a fine instead of imprisonment in cases of a convicted natural person and I give my reasoning for this in the Model Law (page 106).
51. A crucial, novel suggestion I have made in this Model Law is to require the compulsory payment of compensation to victims in all cases where there has been a conviction of a perpetrator, thereby critically linking victims' rights to obtain a remedy for their trafficking, harm and suffering with the State's focus on the prosecution of offenders. I consider the award of compensation to victims a high priority and indeed a necessity in all cases of child trafficking involving institutional care. Where a judge decides not to award compensation to a victim, I require reasons to be given.
52. The Model Law also aims to create an understanding about the urgent need for donors, funders and volunteers to be aware of the phenomenon of institutional childcare trafficking and to exercise due diligence by making appropriate enquiries about any childcare institution before making financial donations to it or before arranging to volunteer in such an institution wherever it is in the world.
53. A question to be addressed is how do the children end up in such institutions? Often child recruiters act in concert with criminal networks and the traffickers who run the institutions. The recruiters deceive impoverished or disadvantaged parents into giving up their children with false promises of being able to provide the child with a better quality of life, with good education or healthcare that the parents cannot. In other cases children may be abducted, bought or sold into these institutions.
54. In all cases to which this Model Law is directed, the traffickers seek the attentions of funders, donors and volunteers, misleading the well-intentioned into believing they can materially help the children by providing financial support or gifts or donations in-kind that will be used to assist the children and improve their conditions. The underlying and sinister truth in such cases however is that the children are being used by the traffickers on account of their vulnerabilities including their social and physical isolation once in the institutions, and that the children are simply chattel, devices and commodities to the traffickers, who are using the pretence of being concerned for the welfare of the child in the orphanage or institution to camouflage the traffickers' true condition, namely their criminality.
55. In some cases the trafficker may not be a national of the State in which the criminality is conducted, or perhaps the benefit or proceeds of the criminality is being obtained by a person or legal entity in another State to that where the children in the institution have been trafficked and are being held. To that end I have included in the Model Law a framework of different scenarios to establish extensive extra-territorial jurisdiction for all the offences that I have mentioned.
56. An accurate description of some features of the practice of institutional childcare trafficking is found in the United States Trafficking in Persons Report of 2018, which devoted a special section to the topic of "child institutionalization and human trafficking", having noted the occurrence of this form of trafficking in Nepal in its earlier 2017 report, finding in 2018 that:
- "Institutional complicity ... extend[s] to the practice of recruiting children for the facility. "Child finders" travel to local villages or communities – often those affected by war, natural disaster, poverty, or societal discrimination – and promise parents education, food security, safety, and healthcare for their children. Instead of fulfilling those promises, many orphanages use the children to raise funds by forcing them to perform shows for or interact and play with potential donors to encourage more donations. Orphanages have also kept children in poor health to elicit more sympathy and money from donors."*
57. The Report goes on to explain the unwitting role played by donors and volunteers in perpetuating the trafficking rings' enterprises:
- "Voluntourism not only has unintended consequences for the children, but also the profits made through volunteer-paid program fees or donations to orphanages from tourists incentivize nefarious orphanage owners to increase revenue by expanding child recruitment operations in order to open more facilities. These orphanages facilitate child trafficking rings by using false promises to recruit children and exploit them to profit from donations. This practice has been well-documented in several countries, including Nepal, Cambodia, and Haiti."*
58. This practice, which engages an intention to financially exploit the children by virtue of their presence in the childcare institutions, has been very well-documented in numerous reports by many non-governmental institutions since 2004, including by Lumos in prior reports and in its 2021 Global Thematic Review.
59. The perpetrators of these types of trafficking crimes are unscrupulous and often highly organised criminals who get away with their crimes because this form of child trafficking and exploitation is often not sufficiently understood by affected States, or it is behaviour that is not expressly included in a State's trafficking laws, leading to the criminality going unchecked and unpunished, because police and other law enforcement bodies do not recognise this as comprising the crime of child trafficking and they have not been trained to understand it as such. In some cases, public officials may be complicit in the crimes. This Model Law therefore seeks to highlight the relevant crimes as well as the aggravated crimes and may be used as an accessible tool to help educate and train relevant actors and interested parties.
60. Crucially, it is not only the donors, funders and volunteers who are efficiently duped by the perpetrators but first and foremost, as earlier stated, the parents of impoverished children who may be deceived by the child traffickers and their networks into believing that their children will have a safer and better future in an 'orphanage' than the child's parents can provide for them at home.
61. However, to focus on the criminality in these cases as being crimes of deception misses the point that the most egregious violations and abuses committed by the perpetrators involved in this criminality is done to the children themselves. The trafficked children are kept in dangerous, deprived conditions in childcare institutions which should instead be protecting them from harm and they are used as commodities by the traffickers for the primary purpose of exploiting them for financial gain.
62. This is human trafficking in its most deplorable form. Ripping children away from their already vulnerable circumstances and placing them in childcare institutions from which they cannot escape and where they are left in the hands – and at the mercy – of dangerous adults who mean to use their very existence to acquire profit. The methods of control used on the children, including the removal of their personal identities in many cases and being instructed to lie about their family situation or names, perhaps being forced to say they are orphans whose parents have died, risks causing grave and lasting traumatic harm to children. Institutional childcare traffickers may also deliberately keep children in poor health or with disabilities to engender sympathy from charitable donors. When traffickers isolate and use children in this way, children who have no one to help them in the residential institutions apart from volunteers who are blind to, or perhaps uninterested in the dangers the children face, it enables criminal actors and enterprises to disguise themselves well and to flourish under the pretence of providing legitimate childcare and support.
63. It is in the name of protecting the children that we must now therefore urgently act.
64. I thank Lumos for inviting me to work with them on this crucial topic of institutionalised childcare trafficking and I thank all the experts who have contributed their rich expertise at the two expert meetings I co-convened with Lumos at King's College London in 2019. I thank also my Australian legal colleague Kate van Doore for her vision and great leadership in this field.
65. This is a Model Law which includes necessary elements of an effective framework of legal provisions to combat the spectre of child trafficking into institutionalised childcare for the purpose of financial exploitation. Many States may already have a number of the provisions in their laws to combat existing forms of human trafficking but the need to address the form of child trafficking that is the subject-matter of this Model Law has become an increasing imperative, particularly in the absence of successful prosecutions of perpetrators of these crimes. Crime thrives without the attention and operation of the law.
66. It is hoped this Model Law can serve as a point of discussion to enable effective laws that can combat these crimes to be introduced, amended, developed or applied.

# THE MODEL LAW

## ARTICLE 1: CHILD TRAFFICKING OFFENCE

1. It shall be a criminal offence to recruit, transfer, transport, harbour or receive a child into an orphanage or other residential childcare institution for the purpose of financial exploitation.
2. A person guilty of this child trafficking offence is liable on conviction to:
  - (a) imprisonment for a period of at least [10] years; and
  - (b) compulsory payment of compensation to the victim; and
  - (c) confiscation of assets and disqualification from being involved in any current or future business involving children.
3. A judge must give reasons for deciding not to award compensation to a victim.

### COMMENTARY:

**The criminal offence:** Model Law Section 1(1) creates the offence of trafficking a child for the purpose of financial exploitation. It reflects the internationally agreed UN definition of child trafficking, by specifying that it may comprise any one of five acts – the recruitment, transfer, transportation, harbouring or receipt of a child – which is done for the purpose of exploiting the child.

Under Section 1(1) the specific type of exploitation that underpins the criminality being addressed by this Model Law is however particularised, namely being the ‘financial exploitation’ of a child. This is to clarify that the Model Law is directed at criminalising the conduct of those who intend to exploit a child for monetary purposes by bringing them into, and maintaining them in, an institutional residential childcare setting. The criminal intention, or in other words purpose or aim, of financially exploiting the child underpins the crime and contrasts with the non-criminal intentions of those who arrange and bring a child into a residential child care institution with the primary intention of providing for the child’s appropriate care and needs as an orphan, a separated child or any other kind of vulnerable child who is in need of shelter, care and assistance.

Hence, it is the dominant motivation of monetary criminal profits, benefit or gain at the expense of the welfare of the child that is the very essence of the specific exploitation that underpins the financial exploitation crimes created under this Model Law.

The provision does not therefore criminalise the actions of those who run orphanages or other residential childcare institutions that are legitimately seeking to provide care, support and protection for vulnerable children.

However, individuals who act in one of the five specified ways (the recruitment, transfer, transportation, receipt and harbouring of a child) to intentionally bring any child into an orphanage or residential childcare institution with the aim of financially exploiting the child’s presence there will be directly caught by the Model Law’s criminal provisions and such persons will be committing a criminal offence.

It will be a matter of fact and evidence-gathering by the relevant law enforcement authorities, and to be proven by State prosecutors, as to whether a person possessed the requisite criminal intention of financial exploitation in order to establish whether the commission of this type of child trafficking has taken place.

**Duration of penalty:** Model Article 1(2)(a) suggests a minimum penalty for the crime as being of at least ten years. A high-level starting point of a period of imprisonment in the case of any form of child trafficking is necessary in order to deter those intent on being involved in the commission of the crime. A high starting point also reflects the seriousness of the offence, the extreme vulnerability of children to being trafficked and the severe forms of harm they are at risk of suffering as victims of exploitation, intended or actual. The ten years’ imprisonment that is suggested here as the starting point for a State’s criminal laws addressing the crime in question is comparable, in my research, to the starting point for imprisonment that already exists in many of the countries where the phenomenon of orphanage or other residential care trafficking takes place. Where a State already has a higher starting point for human trafficking or for child trafficking that should be applied instead of the ten years

proposed here. Where a State has a lower minimum period of imprisonment in its domestic laws that can be applied, instead of the ten years proposed.

**Compensation as a Form of Penalty:** Model Law Article 1(2) (b) introduces a novel, compulsory award of compensation. I consider it is necessary for victims to be compensated by the perpetrator of the trafficking offence whenever this is possible, but this important aspect of justice is frequently overlooked by States when drafting or applying their criminal laws. Prioritising compensation for the victim upon the offender’s conviction in this Model Law is therefore necessary to ensure that the dual aims of any fair criminal justice system are met, namely achieving justice for the victim and accountability for the offender. Justice in the form of compensation is very important when the victim is a child who has been subjected to the serious criminality and abusive behaviour that this Model Law targets against. Model Law Article 1(3) is a provision designed to bring directly to a judge’s attention, before and at the time of sentencing the offender, the importance of ordering compulsory compensation payable to a victim: where no compensation is ordered the judge is required to give reasons. A similar provision can be found in the UK’s Modern Slavery Act 2015, section 8(7)(b).<sup>[4]</sup> The level of compensation to be ordered should ordinarily take into account the material loss and non-material loss (pain and suffering) that a child has suffered. Compensation may be used in a multitude of possibilities, such as to support a child’s upbringing back in their family and community if the family is a safe environment for the child, or it may support alternative care by a relative or to assist in the child’s medical needs and primary or secondary education. The compensation could support them in their later lives, to go to college or university or to establish themselves in a trade. There is no limit to the possibilities.

To that end, in addition to a sentence of imprisonment, a novel inclusion is suggested in this Model Law, namely that upon his or her conviction for the crime the offender is required to pay compensation to the victim.

Bringing or seeking compensation for the victim in separate proceedings may be legally complex or perhaps impossible. The exact procedure by which the payment of compensation may become possible in a State will need to be addressed by a State’s individual criminal laws, as these will need to ensure that a range of procedures are possible under the law. These will include:

- Having or introducing necessary laws to ensure that the competent authorities, such as the law enforcement bodies and the courts, are entitled to seize and confiscate the perpetrator’s assets and proceeds of crime and having the power to order the additional payment of a substantial fine where an order for compensation is not met
- Having or introducing a State Fund for trafficking compensation to pay victims compensation in cases where the assets of the offender cannot be located and seized (the

fund could be a central fund that is financed by any confiscated assets obtained by the State and also funded, for example, by donations from international or civil society organisations and private benefactors).

- Necessary policies to enable the appointment of a child guardian or a child victim advocate who can assist the child and the court by obtaining any necessary medical reports, statements and other relevant evidence to establish the harm and ill-treatment that the child has endured, as such reports will be necessary to assist a judge in quantifying the sum that the court should award to the child victim.
- Confiscation of assets and disqualification from conducting any business relating to children: these are also very serious forms of punishment for an offender which are necessary to complement the criminal justice aims of the Model Law. Each, again, has obvious deterrent features as well as being preventative of further harm. The power of a judge to confiscate assets will necessarily also focus law enforcement efforts on identifying, investigating and freezing assets at the time of arrest.

**No fine in lieu of imprisonment:** It is notable that the penalty of imprisonment suggested under Model Article 1(2) does not include reference to “...or a fine”.

It is advisable that there should never be any possibility of the payment of a fine by a criminal offender as an alternative form of punishment to a term of imprisonment for a crime of such gravity as child trafficking. To that end, it is advised that in States where the alternative of a fine to a custodial sentence presently exists under their domestic trafficking laws, serious consideration is given to amending their laws to remove this possibility. Many traffickers and perpetrators of modern slavery offences will have built the payment of fines in lieu of imprisonment for their crimes into their business models, on the basis that if their criminal activities are detected they will be able to avoid any lasting adverse impact to their business enterprises, and to their substantial profits, through a law’s alternative possibility of paying a fine.

However, strict criminal laws, that always require the imprisonment of offenders where a conviction for a trafficking or modern slavery offence ensues, are much more likely to deter offenders from committing their crimes than laws which permit the penalty of a fine. Going to prison has deep personal and reputational impact on a person. The penalty of punishment by way of a fine alone should never be acceptable for child trafficking, or indeed for any form of trafficking, and will never act as a sufficient deterrent to prevent offenders from re-offending and re-trafficking.

## ARTICLE 2: ADDITIONAL OFFENCES RELATING TO THE FINANCIAL EXPLOITATION OF A CHILD

It shall be a criminal offence to do any of the following acts when done for the purpose of the financial exploitation of a child, namely to:

1. Establish, direct, operate, control or manage an orphanage or other residential childcare institution; or
2. Solicit or receive funds, donations or gifts, including in-kind donations and the voluntary work of volunteers, for an orphanage or other residential care institution.

A person guilty under this section is liable on conviction to imprisonment for a period of at least [10] years.

### COMMENTARY:

*Model Article 2(1)(a) and (b) introduces additional criminal offences that concern the chain of events that is usually undertaken by perpetrators to enable them to financially exploit children in an orphanage or other residential childcare institution. Again, the offenders' purpose of financially exploiting the child underpins the criminal offence, namely in this case the setting-up or running of the orphanage or childcare residential institution or the soliciting or receipt of donations, funds and volunteer work and of which is done for the purpose of the financial exploitation of the child. It is imperative to note that the offence does not directly criminalise the volunteers themselves, or the donors or funders, but rather those who intentionally or knowingly solicit or receive the donations or funds or voluntary work for the purpose of the financial exploitation of the child. The provision does not criminalise the actions of those who run orphanages or other residential childcare institutions that are legitimately seeking to provide care, support and protection for vulnerable children.*

*Penalty for the commission of the crimes: As with Article 1(2)(a), the Article 2 offences under this Model Law are to be subjected under Article 2(2) to a term of imprisonment. There is no possibility of a fine in lieu of imprisonment. A minimum term of ten years is suggested here and the commentary under Article 1(2)(a) is also relevant, concerning the duration of the penalty and domestic practices regarding minimum and maximum sentences.*

## ARTICLE 3: AGGRAVATING OFFENCES

The following shall be aggravating circumstances for purposes of this section, namely where:

1. the child was bought or sold in order to be placed in the orphanage or other residential care institution;
2. the child was intentionally transferred across an international border in order to be placed in the orphanage or other residential care institution;
3. the child was intentionally misrepresented to another person, including to an actual or potential donor, funder or volunteer, or to another orphanage or other residential childcare institution, as being an orphan when the child was not an orphan;
4. the child was instructed to tell another person that they were an orphan, when the child was not an orphan or was otherwise told to lie about their family or care situation;
5. the child's name was changed, formally or informally, by those receiving or having any control of the child in the orphanage or other residential childcare institution, including if the child was told to give a false name;
6. a false birth certificate or other identification document for the child or a false death certificate for the child's parent or parents has been acquired, used or maintained;
7. the child has been denied access to their natural parents, custodians or guardians, or such persons have been denied access to their child;
8. the child has been denied access to adequate food, sleeping arrangements, clean water, sanitation, medical care or education;
9. the child has been subjected to conditions hazardous to his/her/their physical or mental health or emotional well-being;
10. the child has been subjected to harmful exploitation, including forced or compulsory labour, debt bondage, slavery, servitude, sexual exploitation including pornography, forced marriage, sexual or physical abuse, sacrificial or harmful rituals, the removal of organs or tissues, or has been recruited, used or offered for forced begging, or for any unlawful or criminal activities, including for the manufacture or movement of drugs, used in armed conflict or as a child soldier;
11. the child was required to perform in shows or in performances by way of singing, dancing, playing music, acting, or in any other way, to attract donations or funding for the orphanage or other residential childcare institution;
12. the child has been moved out of the orphanage or residential childcare institution for the purpose of any form of exploitation;
13. the child has been confined to the orphanage or other residential childcare institution by the use of threats, force or any physical, psychological or coercive means of pressure, control or circumstances;
14. a child has been subjected to violence, intoxication or drugs or personal or mental injury;
15. a child has developed any mental health condition, including an attachment disorder, as a consequence of being required to spend time with a volunteer or donor, in person or through correspondence;
16. the offence involved the deliberate harming of children to maximise profits;
17. the offence was committed against a large number of children or over a long period of time;
18. the child has been discriminated against, including on the basis of their race, colour, religion, culture, language, national or social origin, gender, ethnic group, disability, birth or any other status;
19. the offence has been committed by an organised criminal network of three or more persons;
20. a public official has committed, or has been complicit in, the offence; or
21. the orphanage or residential childcare institution has been operating without a valid licence in a country where a licence is required.

A person who commits an offence under Articles 1 and 2 in any of the circumstances referred to in Article 3(1) shall be charged with an aggravating offence and shall be liable on conviction to a term of between [10 years and life imprisonment], in addition to the payment of compensation to the victim.

**COMMENTARY:**

The offences listed under Article 3 are not free-standing offences but are aggravating forms – which could be described as ‘extreme forms’ – of the criminal offences listed at Articles 1 and 2. Where, therefore, an individual has committed a criminal offence under Article 1 or Article 2 and the features of the particular offence also fall into one of the categories listed under Article 3, the offence will be prosecuted as an aggravated form of the Article 1 or 2 offence. This will enable, upon conviction, the imposition of the higher penalty of imprisonment, as contained under Article 3(2).

All of the circumstances above are considered to aggravate the offence.

Experts at the two expert group meetings hosted at King’s College London in 2020 discussed in depth the many circumstances and examples of child exploitation for financial purposes that occur in residential childcare institutions and how so many of these constitute extremely grave forms of often lasting harm towards children. To that end this Model Law contains an extensive list of these aggravating forms of criminality, which are suggested for inclusion in the domestic law of any States where the trafficking of children into childcare institutions for the purpose of financial exploitation occurs.

Included within this list is also the buying or selling of a child which is tantamount to slavery itself and should be included as a criminal offence in its own right in every State’s criminal laws, but it is included here to link the chain of criminal events that is specifically geared towards identifying and prosecuting perpetrators involved in intending the financial exploitation of a child in a residential childcare institution.

Many of the circumstances described may lead to the grave risk of increased harm to a child.

There are additional risks of abuse and ill-treatment for any child living in a criminal establishment run by traffickers who have the intention of financially exploiting the child there and, according to expert evidence obtained, the risk of ill-treatment is very high. Once the child is under the trafficker’s control the criminals running the institutions may falsely declare the child to be orphaned, displaced or separated, may change the child’s names by false documents to remove their identities, may refuse to allow them access to their families or to freely leave the institution and may beat, threaten or otherwise harm them into submission. In some cases traffickers may require children to form friendships or attachments with volunteers or funders to elicit more funding, through letter-writing or through in-person visits, exposing the child to the risk of suffering from emotional attachment disorders or other mental health conditions. Traffickers often also, for example, require children to give false names to visitors, to lie and say they are orphans

when they are not, to dance or sing in shows or performances for potential or existing funders sometimes for hours at a time. In other cases the children may be subjected to additional forms of exploitation at the institution itself, aside from the traffickers’ financial exploitation of the children’s presence there to gain funds, or may be taken out of the institution for exploitation, such as for their forced labour to build premises or for the purpose of sexual exploitation, or where they are taken into towns or cities and forced to beg. The traffickers may also often maintain the children in impoverished living or healthcare conditions in the residential childcare institutions themselves to attract greater sympathy and thereby funds from potential donors. Each of these circumstances engage severe child abuse. The Model Law therefore identifies all these incidences as constituting additionally serious crimes, namely ‘aggravated offences’, which warrant higher penalties, and it lists them as such.

In addition, some features of human trafficking are recognised under international trafficking treaties under UN, Council of Europe and EU laws, for example, as being aggravating offences. These include trafficking cases involving a public official in the crime or the involvement of an organised criminal network, which under international law is three or more people acting in concert with the aim of committing a crime.

A novel addition suggested in the list of aggravated crimes is where the residential childcare institution was unlicensed in a country where they require to be licensed. This has been added to additionally have a deterrent aim.

It is recalled that this list of offences does not exist on its own as forms of crimes, but are aggravated forms of the criminal offences listed under Articles 1 and 2 of this Model Law.

In terms of the aggravated offences involving any physical or mental health illnesses the expert evidence of a medical practitioner or possibly a qualified social worker in the mental health arena may be required by the prosecutor to assist a court. Penalty: The suggested bracket of imprisonment for the aggravated crime penalty under Article 3(2) may be raised or lowered depending on a State’s existing laws for child trafficking and aggravated offences, but as with Articles 1 and 2 it should never be an alternative to a fine, which is not a commensurate punishment for the crime of child trafficking and would never have a deterrent effect.

**ARTICLE 4: IRRELEVANCE OF THE CHILD’S CONSENT**

The consent of a child to their recruitment, transfer, transportation, harbouring, receipt or exploitation under Model Law Article 1, or to any of the circumstances set out as being aggravated offences under Model Law Article 3, shall be irrelevant.

**COMMENTARY:**

It is well-established and internationally recognised that in line with the human trafficking definition a child cannot consent to their trafficking or exploitation. This is because a child is vulnerable to being trafficked and exploited by virtue of age alone and so it must never be required under law to evidence that a child was subjected to any one of the ‘means’<sup>14</sup> that are needed for human trafficking of an adult to be established. Model Law Article 4 therefore reflects the international position and therefore also logically extends the irrelevance of a child’s consent to any of the acts constituting the aggravated offences under this Model Law Article 3. Children are extremely vulnerable to being trafficked on account of their age. The irrelevance of consent under Model Law Article 4 therefore has a dual role as it both confirms that an offender cannot escape liability by claiming that the child agreed to any conduct that is criminalised under this Model Law and it also confirms that when a child is being assessed by the relevant authorities in an identification procedure as a potential victim of trafficking, the child’s consent to what befell them in terms of the crimes under this Model Law is to play no negative role in the identification assessment.

**ARTICLE 5: NON-PUNISHMENT OF CHILD VICTIMS OF TRAFFICKING**

No child shall be prosecuted or punished for unlawful acts related to their trafficking or exploitation

**COMMENTARY:**

It is crucial to protect child victims of trafficking from re-victimisation and secondary trauma and the application of non-punishment provision is an essential protective feature of this. Under the United Nations Principles and Guidelines on Human Rights and Human Trafficking 2002, a child is entitled to protection before the law, not prosecution, for any unlawful act which they may have committed which is related to their trafficking. This may involve an act committed during the recruitment stage, the exploitation stage or the post-exploitation stage, such as during an escape from their trafficker. For example, in countries where street begging is a crime, a child who was trafficked by a residential childcare institution for forced begging in a city or town must not be prosecuted for that unlawful act. The application of the non-punishment provision is an essential feature of a human rights approach that States must apply in order to protect child victims of trafficking from punishment upon their detection.<sup>15</sup>



## ARTICLE 6: DEFINITIONS

1. The “financial exploitation of a child”, for the purposes of Articles 1 and 2, above, means having as the dominant purpose the use of a child for profit or other economic or material benefit or gain, as opposed to the dominant purpose of acting in the child’s best interests with the intention of providing the child with a good standard of welfare, healthcare, food, shelter and education.

### COMMENTARY:

*Whether an individual or business entity had a dominant purpose of financially exploiting the child will be evidenced by way of a financial investigation.*

*This will elicit – ideally – what funds were received, from whom, where they were received and how the funds were spent or invested.*

*It is imperative for States to have in their law enforcement/police teams financial investigators who are trained in investigating financial flows in human trafficking cases. Their investigations and questions will involve assessing what money (or payment in kind) was obtained from parents, relatives, funders, donors and volunteers and how it was spent. Was it invested or spent on the welfare of the children residing in the institution and if so, how much of it was used for the benefit of the children? If the money wasn’t spent for the purpose for which it was obtained – ie, in line with what donors were told when they gave the money, etc – it will have been spent for an improper purpose and this will be evidence that a crime under this Model Law may have been committed.*

*However, it is important to note that orphanages and other residential childcare institutions which provide children with some welfare, food and healthcare, etc. and which are able to evidence this could still be perpetrators of crimes under Articles 1 and 2 involving the financial exploitation of a child if the dominant purpose of bringing the child into the institution was to exploit the child in order to run the institution or pay its directors or staff. Again, the careful work of law enforcement’s financial investigators will be able to elicit this.*

*There have been examples of this seen in Lumos’ work and that of other experts in the field overseas.*

*Again, the investigatory authorities would need to carefully consider all the available evidence pertaining to what was the dominant purpose of the child being in the institution and calculate the sum of donations received against the investments made in favour of the welfare of the child.*

2. “Child” shall mean a person under the age of 18.
3. “Natural person” shall mean a human being.
4. “Legal person” shall mean a business entity, organisation or body corporate and for the purposes of this Model Law shall include an orphanage or other residential childcare institution.
5. “Orphan” shall mean a child who has lost both of their natural parents through death.
6. “Orphanage or other residential childcare institution” shall include any residential childcare institution including orphanages and children’s homes, whether licenced or unlicenced, whether State-run or privately administered, regardless as to whether children residing there are actually orphans or not.

## ARTICLE 7: PRESUMPTION OF AGE

Where the age of the child is uncertain but there is reason to believe that he or she may be a child they shall be treated as child, pending full verification of their age.

### COMMENTARY:

*This is a well-established legal protective provision for vulnerable children, requiring that if there is any doubt about the child’s age they are to be treated as a child pending confirmation of their age.*

## ARTICLE 8: LIABILITY – GENERAL RULE

This Model Law shall apply whether the offence was committed by a natural or legal person.

### COMMENTARY:

*The Model Law introduces liability both for natural persons (human beings) and for legal persons (business entities, including childcare institutions and orphanages) in order to create a comprehensive platform of liability and punishment and also to enable robust sources of compensation for the victim.*

## ARTICLE 9: LIABILITY OF LEGAL PERSONS

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. A legal person, such an orphanage or other residential childcare institution, commits an offence under this Law if the offence was:           <ol style="list-style-type: none"> <li>a) committed for the benefit of the legal person; by</li> <li>b) an owner, director, manager, employee, shareholder, officer or any other natural person who has authority to take decisions or exercise control for or on behalf of the legal person.</li> </ol> </li> <li>2. A legal person who has committed an offence under Article 1 or 2 of this Model Law shall be ordered to pay compensation to the victims.</li> <li>3. The liability of a legal person shall not exclude criminal proceedings being brought against a natural person who commits or participates in the commission of an offence.</li> <li>4. Where an offence under this Model Law is committed by a legal person, the Court shall, in addition to ordering the legal person to pay compensation to the victim or victims of the offences, order one or more</li> </ol> | <p>of the following penalties to be imposed on the legal person, namely that the orphanage or other residential childcare institution be subjected to:</p> <ol style="list-style-type: none"> <li>a) The closure of the legal person's establishment where the offence was committed, together with its other offices;</li> <li>b) The disqualification of the legal person from carrying out commercial activity relating to childcare;</li> <li>c) The cancellation of the registration or licence of the legal person;</li> <li>d) The confiscation of all of the criminal assets of the legal person;</li> <li>e) The imposition of a substantial financial penalty on the legal person by way of a fine.</li> </ol> |
|---|--|

### COMMENTARY:

*Many States have not introduced corporate criminal liability for human trafficking offences and as such, when individuals are convicted of human trafficking and modern slavery crimes, the businesses or establishments that were being used in and for the commission of the crime remain unaffected and can continue to be used for criminal purposes including trafficking in persons.*

*Model Law Articles 8 and 9 seek to address this by introducing criminal liability for the orphanage or other residential childcare institution itself and by suggesting a number of relevant penalties for the business itself upon its criminal conviction. This is because the deterrent sentence of imprisonment under Articles 1 and 2 are for natural persons, ie, human beings, and are not directed at businesses.*

*Taking some influence from regional and international human trafficking treaties, but building specific provisions that go much further, the penalties under Article 9(4) are therefore designed to firstly enable the criminal liability and robust punishment of legal persons that have committed the offences under this Model Law and secondly to also act as a deterrent so that businesses will no longer be able to escape the reach of criminal laws against trafficking which have been too often directed at targeting the human perpetrators of crime alone.*

*A novel feature that I have introduced is, similarly to under Model Law Articles 1 and 3, to make the payment of compensation to the victims compulsory in all cases involving the commission of an offence by a legal person. Such business entities often make significant if not huge profits from trafficking children for the purpose of financial exploitation and I consider it necessary under this Model Law to draw attention to this, to remove the impunity of businesses that traffic children, deprive them of their criminal profits, close them down and above all require them to pay compensation to their victims.*

## ARTICLE 10: JURISDICTION

This Law shall apply whether the offence was committed:

1. in the territory of the State, irrespective of the nationality, habitual residence or statelessness of the victim or of the perpetrator;
2. in whole or in part within the State; or
3. in another State, where:
  - the victim is a national or a habitual resident of this State;
  - the perpetrator is a national or a habitual resident of this State; or
  - the offence was committed for the benefit of a natural or legal person established or living in the territory of this State.

### COMMENTARY:

*This Model Law provision has been drafted to create the optimum conditions for the prosecution of offences. It applies whether the offence was committed in the State where the Model Law is implemented or was committed abroad. It will also be possible to prosecute for a crime committed abroad where the victim of the offence is a national or habitual resident (that is someone ordinarily resident) in the State which has implemented the law or where the offence was committed abroad but was done for the benefit of the individual or business entity that is based in the State which has passed the law. Again, this is an important provision for establishing liability for offences committed abroad.*

## ARTICLE 11: PARTICIPATION OFFENCES

Inciting, aiding, abetting or attempting to commit any of the offences under this Law are criminal offences and carry a punishment of a minimum of [5 years imprisonment].

### COMMENTARY:

*The purpose of this provision is to criminalise those who intentionally seek to assist a person or persons in the commission of one of the criminal offences under Articles 1 and 2 of the Model Law.*

*This Model Law provision is required to ensure that all those who knowingly participate in the offences in this Model Law can be held criminally liable for their conduct. This would not, for example, criminalise the parents of institutionalised children who were unaware that the orphanage or residential care institution that was recruiting or receiving their child was intending to financially exploit the child. Nor would it criminalise donors who provide funds or volunteers who provide their services pro bono to institutions which they believe are legitimately caring for the welfare and best interests of the children living there. The suggestion of five years can be replaced with a higher or lower period of punishment depending on the State's range of existing laws for participation offences, but it must not be replaced with a fine in lieu of imprisonment: this is no commensurate penalty and would have no deterrent effect.*

## POSTSCRIPT ON THE SUPPLY CHAIN OF DONATIONS:

*An interesting consequence of focus being placed on these Model Law provisions by interested organisations and those seeking to lobby and discuss ways to have them introduced in one way or another into States' laws will be to starkly highlight the vulnerability of donors and volunteers to being investigated for investing in criminal enterprises involved in exploiting children, as such donations may unwittingly but ultimately comprise, if provided to traffickers of children in institutional care, the proceeds of crime.*

*This awareness would be in addition to the Model Law highlighting the risk of children in orphanages and childcare institutions to being intentionally financially exploited by those who own, manage or run the institutions and to being at risk of any one of the gravely serious aggravated offences.*

*The Model Law is therefore very likely to influence donors, funders and volunteers to exercise careful due diligence and detailed investigations into the management and running of any proposed childcare institution before deciding whether to fund or donate towards it or volunteer in it. The real and very probable impact of this on the "supply chain" of funds and donations and voluntary work to childcare institutions that are involved in trafficking children with the aim of using them for financial exploitation cannot be underestimated.*

### **Duty on Governments**

*Light has been shone on the spectre of institutional childcare trafficking by this Model Law and Commentary. It is firmly suggested that States are under a positive obligation to protect the human rights of affected children in their territories through an urgent review of their criminal legislation to ensure that it is fit for purpose and if not, to amend accordingly with the advice I have given herein. Governments are also under a duty to protect children through the formal regulation of residential childcare businesses including through licencing, inspection, the establishment of minimum standards and robust monitoring to ensure protective standards are introduced, met and sustained with the aim of ensuring – above all – that all such vulnerable children are safe and kept safe.*

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1 August 2021

<sup>[1]</sup> Lumos. (2017). Funding Haitian Orphanages at the Cost of Children's Rights. <https://www.wearelumos.org/resources/funding-haitian-orphanages-cost-childrens-rights/> [accessed 1 September 2021].

<sup>[2]</sup> The phenomenon known as orphanage trafficking was first identified by non-governmental organisations working in child protection and where links among child exploitation, institutionalism and profit were detailed in fieldwork and research in Nepal in 2005 and 2014. Subsequently, in 2016 the eminent Australian lawyer Kathryn ('Kate') E. van Doore wrote a landmark paper drawing attention to the plight of children forced to pose as orphans in orphanages for the purpose of exploitation and profit, "Paper orphans: Exploring child trafficking for the purpose of orphanages". The following year, and following extensive work by the expert Martin Punaks and others, the United States Trafficking in Persons Report 2017 documented the incidence of children being recruited into orphanages in Nepal and being required to falsely declare they were orphans "to garner donations from tourists and volunteers: some of the children are also forced to beg on the street".

<sup>[3]</sup> United Nations General Assembly Resolution 64/142, of 24 February 2010.

<sup>[4]</sup> <https://www.legislation.gov.uk/ukpga/2015/30/section/8/enacted>

<sup>[5]</sup> The 'means' of trafficking are listed in the UN Palermo Protocol, Article 3(a) as being, "threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person".

<sup>[6]</sup> See: landmark judgment of the European Court of Human Rights on the non-punishment of child victims of trafficking in the case of V.C.L. and A.N. v UK, Judgment of 16 February 2021, <https://hudoc.echr.coe.int/eng#%7B%22appno%22%3A%2274603/12%22%22itemid%22%3A%22001-207927%22%7D>; UN Special Rapporteur on Trafficking in Persons' Report to the Human Rights Council on the implementation of the non-punishment principle, June 2021 <https://reliefweb.int/report/world/implementation-non-punishment-principle-report-special-rapporteur-trafficking-persons>; UN Special Rapporteur on Trafficking in Person's position paper on non-punishment, July 2020 "The importance of implementing the non-punishment provision: the obligation to protect victims" <https://www.ohchr.org/EN/Issues/Trafficking/Pages/non-punishment.aspx> and see the OSCE "Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking", June 2013 <https://www.osce.org/secretariat/101002>



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